

108TH CONGRESS  
1ST SESSION

# H. R. 3549

To amend titles XVIII and XIX of the Social Security Act to improve payments to providers of services and physicians furnishing services to Medicare and Medicaid beneficiaries, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2003

Mr. HILL (for himself, Mr. SANDLIN, Mr. LAMPSON, Mr. MCINTYRE, Mr. ETHERIDGE, Mr. HOYER, Mr. TANNER, Mr. WU, and Ms. PELOSI) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to improve payments to providers of services and physicians furnishing services to Medicare and Medicaid beneficiaries, 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,*

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECUR-**  
 2 **RITY ACT; REFERENCES TO BIPA AND SEC-**  
 3 **RETARY; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
 5 “Rural Healthcare Improvement Act of 2003”.

6 (b) **AMENDMENTS TO SOCIAL SECURITY ACT.**—Ex-  
 7 cept as otherwise specifically provided, whenever in divi-  
 8 sion A of this Act an amendment is expressed in terms  
 9 of an amendment to or repeal of a section or other provi-  
 10 sion, the reference shall be considered to be made to that  
 11 section or other provision of the Social Security Act.

12 (c) **BIPA; SECRETARY.**—In this Act:

13 (1) **BIPA.**—The term “BIPA” means the  
 14 Medicare, Medicaid, and SCHIP Benefits Improve-  
 15 ment and Protection Act of 2000, as enacted into  
 16 law by section 1(a)(6) of Public Law 106–554.

17 (2) **SECRETARY.**—The term “Secretary” means  
 18 the Secretary of Health and Human Services.

19 (d) **TABLE OF CONTENTS.**—The table of contents of  
 20 this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA and Secretary; table of contents.

**TITLE I—PROVISIONS RELATING TO PART A ONLY**

Sec. 101. Equalizing urban and rural standardized payment amounts under the medicare inpatient hospital prospective payment system.

Sec. 102. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 103. Adjustment to the medicare inpatient hospital prospective payment system wage index to revise the labor-related share of such index.

- Sec. 104. More frequent update in weights used in hospital market basket.
- Sec. 105. Improvements to critical access hospital program.
- Sec. 106. Medicare inpatient hospital payment adjustment for low-volume hospitals.
- Sec. 107. Treatment of missing cost reporting periods for sole community hospitals.
- Sec. 108. Recognition of attending nurse practitioners as attending physicians to serve hospice patients.
- Sec. 109. Rural hospice demonstration project.
- Sec. 110. Exclusion of certain rural health clinic and federally qualified health center services from the prospective payment system for skilled nursing facilities.
- Sec. 111. Rural community hospital demonstration program.
- Sec. 112. Wage index adjustment reclassification reform.
- Sec. 113. Revision of the indirect medical education (IME) adjustment percentage.
- Sec. 114. Increase in Federal rate for hospitals in Puerto Rico.
- Sec. 115. Clarifications to certain exceptions to medicare limits on physician referrals.
- Sec. 116. 1-Time appeals process for hospital wage index classification.
- Sec. 117. Study on portable diagnostic ultrasound services for beneficiaries in skilled nursing facilities.

#### TITLE II—PROVISIONS RELATING TO PART B ONLY

- Sec. 201. Revision of updates for physicians' services.
- Sec. 202. 2-year extension of hold harmless provisions for small rural hospitals and sole community hospitals under the prospective payment system for hospital outpatient department services.
- Sec. 203. Establishment of floor on work geographic adjustment.
- Sec. 204. Medicare incentive payment program improvements for physician scarcity.
- Sec. 205. Payment for rural and urban ambulance services.
- Sec. 206. Providing appropriate coverage of rural air ambulance services.
- Sec. 207. Treatment of certain clinical diagnostic laboratory tests furnished to hospital outpatients in certain rural areas.
- Sec. 208. Extension of telemedicine demonstration project.
- Sec. 209. Report on demonstration project permitting skilled nursing facilities to be originating telehealth sites; authority to implement.
- Sec. 210. 5-year authorization of reimbursement for all medicare part B services furnished by certain Indian hospitals and clinics.
- Sec. 211. MedPAC report on payment for physicians' services.
- Sec. 212. Payment for renal dialysis services.
- Sec. 213. 2-year moratorium on therapy caps; provisions relating to reports.
- Sec. 214. Payment for clinical diagnostic laboratory tests.

#### TITLE III—PROVISIONS RELATING TO PARTS A AND B

- Sec. 301. 1-year increase for home health services furnished in a rural area.
- Sec. 302. Redistribution of unused resident positions.

#### TITLE IV—OTHER PROVISIONS

- Sec. 401. Medicaid disproportionate share hospital (DSH) payments.
- Sec. 402. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.

Sec. 403. Office of Rural Health Policy improvements.

Sec. 404. MedPAC study on rural hospital payment adjustments.

Sec. 405. Frontier extended stay clinic demonstration project.

1 **TITLE I—PROVISIONS RELATING**  
 2 **TO PART A ONLY**

3 **SEC. 101. EQUALIZING URBAN AND RURAL STANDARDIZED**  
 4 **PAYMENT AMOUNTS UNDER THE MEDICARE**  
 5 **INPATIENT HOSPITAL PROSPECTIVE PAY-**  
 6 **MENT SYSTEM.**

7 (a) IN GENERAL.—Section 1886(d)(3)(A)(iv) (42  
 8 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

9 (1) by striking “(iv) For discharges” and in-  
 10 sserting “(iv)(I) Subject to subclause (II), for dis-  
 11 charges”; and

12 (2) by adding at the end the following new sub-  
 13 clause:

14 “(II) For discharges occurring in a fiscal year  
 15 (beginning with fiscal year 2004), the Secretary  
 16 shall compute a standardized amount for hospitals  
 17 located in any area within the United States and  
 18 within each region equal to the standardized amount  
 19 computed for the previous fiscal year under this sub-  
 20 paragraph for hospitals located in a large urban area  
 21 (or, beginning with fiscal year 2005, for all hospitals  
 22 in the previous fiscal year) increased by the applica-  
 23 ble percentage increase under subsection (b)(3)(B)(i)  
 24 for the fiscal year involved.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) COMPUTING DRG-SPECIFIC RATES.—Section  
3 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is  
4 amended—

5 (A) in the heading, by striking “IN DIF-  
6 FERENT AREAS”;

7 (B) in the matter preceding clause (i), by  
8 striking “, each of”;

9 (C) in clause (i)—

10 (i) in the matter preceding subclause  
11 (I), by inserting “for fiscal years before fis-  
12 cal year 2004,” before “for hospitals”; and

13 (ii) in subclause (II), by striking  
14 “and” after the semicolon at the end;

15 (D) in clause (ii)—

16 (i) in the matter preceding subclause  
17 (I), by inserting “for fiscal years before fis-  
18 cal year 2004,” before “for hospitals”; and

19 (ii) in subclause (II), by striking the  
20 period at the end and inserting “; and”;  
21 and

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

1           “(iii) for a fiscal year beginning after fiscal  
2 year 2003, for hospitals located in all areas, to  
3 the product of—

4           “(I) the applicable standardized  
5 amount (computed under subparagraph  
6 (A)), reduced under subparagraph (B),  
7 and adjusted or reduced under subpara-  
8 graph (C) for the fiscal year; and

9           “(II) the weighting factor (determined  
10 under paragraph (4)(B)) for that diag-  
11 nosis-related group.”.

12           (2) TECHNICAL CONFORMING SUNSET.—Section  
13 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) is amended—

14           (A) in the matter preceding subparagraph  
15 (A), by inserting “, for fiscal years before fiscal  
16 year 1997,” before “a regional adjusted DRG  
17 prospective payment rate”; and

18           (B) in subparagraph (D), in the matter  
19 preceding clause (i), by inserting “, for fiscal  
20 years before fiscal year 1997,” before “a re-  
21 gional DRG prospective payment rate for each  
22 region,”.

23           (3) ADDITIONAL TECHNICAL AMENDMENT.—

24           Section 1886(d)(3)(A)(iii) (42 U.S.C.

1 1395ww(d)(3)(A)(iii)) is amended by striking “in an  
2 other urban area” and inserting “in an urban area”.

3 (c) EQUALIZING URBAN AND RURAL STANDARDIZED  
4 PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT  
5 HOSPITAL PROSPECTIVE PAYMENT SYSTEM FOR HOS-  
6 PITALS IN PUERTO RICO.—

7 (1) IN GENERAL.—Section 1886(d)(9)(A) (42  
8 U.S.C. 1395ww(d)(9)(A)), as amended by section  
9 504, is amended—

10 (A) in clause (i), by striking “and” after  
11 the comma at the end; and

12 (B) by striking clause (ii) and inserting the  
13 following new clause:

14 “(ii) the applicable Federal percentage (speci-  
15 fied in subparagraph (E)) of—

16 “(I) for discharges beginning in a fiscal  
17 year beginning on or after October 1, 1997, and  
18 before October 1, 2003, the discharge-weighted  
19 average of—

20 “(aa) the national adjusted DRG pro-  
21 spective payment rate (determined under  
22 paragraph (3)(D)) for hospitals located in  
23 a large urban area,

24 “(bb) such rate for hospitals located  
25 in other urban areas, and

1                   “(cc) such rate for hospitals located in  
2                   a rural area,  
3                   for such discharges, adjusted in the manner  
4                   provided in paragraph (3)(E) for different area  
5                   wage levels; and

6                   “(II) for discharges in a fiscal year begin-  
7                   ning on or after October 1, 2003, the national  
8                   DRG prospective payment rate determined  
9                   under paragraph (3)(D)(iii) for hospitals lo-  
10                  cated in any area for such discharges, adjusted  
11                  in the manner provided in paragraph (3)(E) for  
12                  different area wage levels.

13 As used in this section, the term ‘subsection (d) Puerto  
14 Rico hospital’ means a hospital that is located in Puerto  
15 Rico and that would be a subsection (d) hospital (as de-  
16 fined in paragraph (1)(B)) if it were located in one of the  
17 50 States.”.

18                   (2) APPLICATION OF PUERTO RICO STANDARD-  
19                   IZED AMOUNT BASED ON LARGE URBAN AREAS.—  
20                   Section 1886(d)(9)(C) (42 U.S.C. 1395ww(d)(9)(C))  
21                   is amended—

22                   (A) in clause (i)—

23                   (i) by striking “(i) The Secretary”  
24                   and inserting “(i)(I) For discharges in a

1           fiscal year after fiscal year 1988 and be-  
2           fore fiscal year 2004, the Secretary”; and

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

5           “(II) For discharges occurring in a fiscal year  
6           (beginning with fiscal year 2004), the Secretary  
7           shall compute an average standardized amount for  
8           hospitals located in any area of Puerto Rico that is  
9           equal to the average standardized amount computed  
10          under subclause (I) for fiscal year 2003 for hospitals  
11          in a large urban area (or, beginning with fiscal year  
12          2005, for all hospitals in the previous fiscal year) in-  
13          creased by the applicable percentage increase under  
14          subsection (b)(3)(B) for the fiscal year involved.”;

15                  (B) in clause (ii), by inserting “(or for fis-  
16          cal year 2004 and thereafter, the average  
17          standardized amount)” after “each of the aver-  
18          age standardized amounts”; and

19                  (C) in clause (iii)(I), by striking “for hos-  
20          pitals located in an urban or rural area, respec-  
21          tively”.

22          (d) IMPLEMENTATION.—

23                  (1) IN GENERAL.—The amendments made by  
24          subsections (a), (b), and (c)(1) of this section shall  
25          have no effect on the authority of the Secretary,

1 under subsection (b)(2) of section 402 of Public Law  
2 108–89, to delay implementation of the extension of  
3 provisions equalizing urban and rural standardized  
4 inpatient hospital payments under subsection (a) of  
5 such section 402.

6 (2) APPLICATION OF PUERTO RICO STANDARD-  
7 IZED AMOUNT BASED ON LARGE URBAN AREAS.—  
8 The authority of the Secretary referred to in para-  
9 graph (1) shall apply with respect to the amend-  
10 ments made by subsection (c)(2) of this section in  
11 the same manner as that authority applies with re-  
12 spect to the extension of provisions equalizing urban  
13 and rural standardized inpatient hospital payments  
14 under subsection (a) of such section 402, except that  
15 any reference in subsection (b)(2)(A) of such section  
16 402 is deemed to be a reference to April 1, 2004.

17 **SEC. 102. ENHANCED DISPROPORTIONATE SHARE HOS-**  
18 **PITAL (DSH) TREATMENT FOR RURAL HOS-**  
19 **PITALS AND URBAN HOSPITALS WITH FEWER**  
20 **THAN 100 BEDS.**

21 (a) DOUBLING THE CAP.—Section 1886(d)(5)(F)  
22 (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at  
23 the end the following new clause:

24 “(xiv)(I) In the case of discharges occurring on or  
25 after April 1, 2004, subject to subclause (II), there shall

1 be substituted for the disproportionate share adjustment  
2 percentage otherwise determined under clause (iv) (other  
3 than subclause (I)) or under clause (viii), (x), (xi), (xii),  
4 or (xiii), the disproportionate share adjustment percentage  
5 determined under clause (vii) (relating to large, urban hos-  
6 pitals).

7 “(II) Under subclause (I), the disproportionate share  
8 adjustment percentage shall not exceed 12 percent for a  
9 hospital that is not classified as a rural referral center  
10 under subparagraph (C).”.

11 (b) CONFORMING AMENDMENTS.—Section 1886(d)  
12 (42 U.S.C. 1395ww(d)) is amended—

13 (1) in paragraph (5)(F)—

14 (A) in each of subclauses (II), (III), (IV),  
15 (V), and (VI) of clause (iv), by inserting “sub-  
16 ject to clause (xiv) and” before “for discharges  
17 occurring”;

18 (B) in clause (viii), by striking “The for-  
19 mula” and inserting “Subject to clause (xiv),  
20 the formula”; and

21 (C) in each of clauses (x), (xi), (xii), and  
22 (xiii), by striking “For purposes” and inserting  
23 “Subject to clause (xiv), for purposes”; and

24 (2) in paragraph (2)(C)(iv)—

1 (A) by striking “or” before “the enactment  
2 of section 303”; and

3 (B) by inserting before the period at the  
4 end the following: “, or the enactment of sec-  
5 tion 102(a)(1) of the Rural Healthcare Im-  
6 provement Act of 2003”.

7 **SEC. 103. ADJUSTMENT TO THE MEDICARE INPATIENT HOS-**  
8 **PITAL PROSPECTIVE PAYMENT SYSTEM**  
9 **WAGE INDEX TO REVISE THE LABOR-RE-**  
10 **LATED SHARE OF SUCH INDEX.**

11 (a) ADJUSTMENT.—

12 (1) IN GENERAL.—Section 1886(d)(3)(E) (42  
13 U.S.C. 1395ww(d)(3)(E)) is amended—

14 (A) by striking “WAGE LEVELS.—The Sec-  
15 retary” and inserting “WAGE LEVELS.—

16 “(i) IN GENERAL.—Except as provided in  
17 clause (ii), the Secretary”; and

18 (B) by adding at the end the following new  
19 clause:

20 “(ii) ALTERNATIVE PROPORTION TO BE  
21 ADJUSTED BEGINNING IN FISCAL YEAR 2005.—

22 For discharges occurring on or after October 1,  
23 2004, the Secretary shall substitute ‘62 per-  
24 cent’ for the proportion described in the first  
25 sentence of clause (i), unless the application of

1           this clause would result in lower payments to a  
2           hospital than would otherwise be made.”.

3           (2) WAIVING BUDGET NEUTRALITY.—Section  
4           1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)), as  
5           amended by subsection (a), is amended by adding at  
6           the end of clause (i) the following new sentence:  
7           “The Secretary shall apply the previous sentence for  
8           any period as if the amendments made by section  
9           103(a)(1) of the Rural Healthcare Improvement Act  
10          of 2003 had not been enacted.”.

11          (b) APPLICATION TO PUERTO RICO HOSPITALS.—  
12          Section        1886(d)(9)(C)(iv)        (42        U.S.C.  
13          1395ww(d)(9)(C)(iv)) is amended—

14               (1) by inserting “(I)” after “(iv)”;

15               (2) by striking “paragraph (3)(E)” and insert-  
16               ing “paragraph (3)(E)(i)”; and

17               (3) by adding at the end the following new sub-  
18               clause:

19               “(II) For discharges occurring on or after Octo-  
20               ber 1, 2004, the Secretary shall substitute ‘62 per-  
21               cent’ for the proportion described in the first sen-  
22               tence of clause (i), unless the application of this sub-  
23               clause would result in lower payments to a hospital  
24               than would otherwise be made.”.

1 **SEC. 104. MORE FREQUENT UPDATE IN WEIGHTS USED IN**  
2 **HOSPITAL MARKET BASKET.**

3 (a) MORE FREQUENT UPDATES IN WEIGHTS.—After  
4 revising the weights used in the hospital market basket  
5 under section 1886(b)(3)(B)(iii) of the Social Security Act  
6 (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most cur-  
7 rent data available, the Secretary shall establish a fre-  
8 quency for revising such weights, including the labor  
9 share, in such market basket to reflect the most current  
10 data available more frequently than once every 5 years.

11 (b) INCORPORATION OF EXPLANATION IN RULE-  
12 MAKING.—The Secretary shall include in the publication  
13 of the final rule for payment for inpatient hospital services  
14 under section 1886(d) of the Social Security Act (42  
15 U.S.C. 1395ww(d)) for fiscal year 2006, an explanation  
16 of the reasons for, and options considered, in determining  
17 frequency established under subsection (a).

18 **SEC. 105. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL**  
19 **PROGRAM.**

20 (a) INCREASE IN PAYMENT AMOUNTS.—

21 (1) IN GENERAL.—Sections 1814(l),  
22 1834(g)(1), and 1883(a)(3) (42 U.S.C. 1395f(l),  
23 1395m(g)(1), and 1395tt(a)(3)) are each amended  
24 by inserting “equal to 101 percent of” before “the  
25 reasonable costs”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by paragraph (1) shall apply to payments for serv-  
3           ices furnished during cost reporting periods begin-  
4           ning on or after January 1, 2004.

5           (b) COVERAGE OF COSTS FOR CERTAIN EMERGENCY  
6 ROOM ON-CALL PROVIDERS.—

7           (1) IN GENERAL.—Section 1834(g)(5) (42  
8 U.S.C. 1395m(g)(5)) is amended—

9                   (A) in the heading—

10                           (i) by inserting “CERTAIN” before  
11                           “EMERGENCY”; and

12                           (ii) by striking “PHYSICIANS” and in-  
13                           serting “PROVIDERS”;

14                   (B) by striking “emergency room physi-  
15                   cians who are on-call (as defined by the Sec-  
16                   retary)” and inserting “physicians, physician  
17                   assistants, nurse practitioners, and clinical  
18                   nurse specialists who are on-call (as defined by  
19                   the Secretary) to provide emergency services”;  
20                   and

21                   (C) by striking “physicians’ services” and  
22                   inserting “services covered under this title”.

23           (2) EFFECTIVE DATE.—The amendments made  
24           by paragraph (1) shall apply with respect to costs

1 incurred for services furnished on or after January  
2 1, 2005.

3 (c) AUTHORIZATION OF PERIODIC INTERIM PAY-  
4 MENT (PIP).—

5 (1) IN GENERAL.—Section 1815(e)(2) (42  
6 U.S.C. 1395g(e)(2)) is amended—

7 (A) in the matter before subparagraph (A),  
8 by inserting “, in the cases described in sub-  
9 paragraphs (A) through (D)” after “1986”;

10 (B) by striking “and” at the end of sub-  
11 paragraph (C);

12 (C) by adding “and” at the end of sub-  
13 paragraph (D); and

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

16 “(E) inpatient critical access hospital services;”.

17 (2) DEVELOPMENT OF ALTERNATIVE TIMING  
18 METHODS OF PERIODIC INTERIM PAYMENTS.—With  
19 respect to periodic interim payments to critical ac-  
20 cess hospitals for inpatient critical access hospital  
21 services under section 1815(e)(2)(E) of the Social  
22 Security Act, as added by paragraph (1), the Sec-  
23 retary shall develop alternative methods for the tim-  
24 ing of such payments.

1           (3) AUTHORIZATION OF PIP.—The amendments  
2           made by paragraph (1) shall apply to payments  
3           made on or after July 1, 2004.

4           (d) CONDITION FOR APPLICATION OF SPECIAL PRO-  
5           FESSIONAL SERVICE PAYMENT ADJUSTMENT.—

6           (1) IN GENERAL.—Section 1834(g)(2) (42  
7           U.S.C. 1395m(g)(2)) is amended by adding after  
8           and below subparagraph (B) the following:  
9           “The Secretary may not require, as a condition for  
10          applying subparagraph (B) with respect to a critical  
11          access hospital, that each physician or other practi-  
12          tioner providing professional services in the hospital  
13          must assign billing rights with respect to such serv-  
14          ices, except that such subparagraph shall not apply  
15          to those physicians and practitioners who have not  
16          assigned such billing rights.”.

17          (2) EFFECTIVE DATE.—

18                (A) IN GENERAL.—Except as provided in  
19                subparagraph (B), the amendment made by  
20                paragraph (1) shall apply to cost reporting peri-  
21                ods beginning on or after July 1, 2004.

22                (B) RULE OF APPLICATION.—In the case  
23                of a critical access hospital that made an elec-  
24                tion under section 1834(g)(2) of the Social Se-  
25                curity Act (42 U.S.C. 1395m(g)(2)) before No-

1 vember 1, 2003, the amendment made by para-  
2 graph (1) shall apply to cost reporting periods  
3 beginning on or after July 1, 2001.

4 (e) REVISION OF BED LIMITATION FOR HOS-  
5 PITALS.—

6 (1) IN GENERAL.—Section 1820(c)(2)(B)(iii)  
7 (42 U.S.C. 1395i-4(e)(2)(B)(iii)) is amended by  
8 striking “15 (or, in the case of a facility under an  
9 agreement described in subsection (f), 25)” and in-  
10 sserting “25”.

11 (2) CONFORMING AMENDMENT.—Section  
12 1820(f) (42 U.S.C. 1395i-4(f)) is amended by strik-  
13 ing “and the number of beds used at any time for  
14 acute care inpatient services does not exceed 15  
15 beds”.

16 (3) EFFECTIVE DATE.—The amendments made  
17 by this subsection shall apply to designations made  
18 before, on, or after January 1, 2004, but any elec-  
19 tion made pursuant to regulations promulgated to  
20 carry out such amendments shall only apply prospec-  
21 tively.

22 (f) PROVISIONS RELATING TO FLEX GRANTS.—

23 (1) ADDITIONAL 4-YEAR PERIOD OF FUND-  
24 ING.—Section 1820(j) (42 U.S.C. 1395i-4(j)) is  
25 amended by inserting before the period at the end

1 the following: “, and for making grants to all States  
2 under paragraphs (1) and (2) of subsection (g),  
3 \$35,000,000 in each of fiscal years 2005 through  
4 2008”.

5 (2) ADDITIONAL REQUIREMENTS AND ADMINIS-  
6 TRATION.—Section 1820(g) (42 U.S.C. 1395i–4(g))  
7 is amended by adding at the end the following new  
8 paragraphs:

9 “(4) ADDITIONAL REQUIREMENTS WITH RE-  
10 SPECT TO FLEX GRANTS.—With respect to grants  
11 awarded under paragraph (1) or (2) from funds ap-  
12 propriated for fiscal year 2005 and subsequent fiscal  
13 years—

14 “(A) CONSULTATION WITH THE STATE  
15 HOSPITAL ASSOCIATION AND RURAL HOSPITALS  
16 ON THE MOST APPROPRIATE WAYS TO USE  
17 GRANTS.—A State shall consult with the hos-  
18 pital association of such State and rural hos-  
19 pitals located in such State on the most appro-  
20 priate ways to use the funds under such grant.

21 “(B) LIMITATION ON USE OF GRANT  
22 FUNDS FOR ADMINISTRATIVE EXPENSES.—A  
23 State may not expend more than the lesser of—

24 “(i) 15 percent of the amount of the  
25 grant for administrative expenses; or

1                   “(ii) the State’s federally negotiated  
2                   indirect rate for administering the grant.

3                   “(5) USE OF FUNDS FOR FEDERAL ADMINIS-  
4                   TRATIVE EXPENSES.—Of the total amount appro-  
5                   priated for grants under paragraphs (1) and (2) for  
6                   a fiscal year (beginning with fiscal year 2005), up  
7                   to 5 percent of such amount shall be available to the  
8                   Health Resources and Services Administration for  
9                   purposes of administering such grants.”.

10                  (g) AUTHORITY TO ESTABLISH PSYCHIATRIC AND  
11                  REHABILITATION DISTINCT PART UNITS.—

12                   (1) IN GENERAL.—Section 1820(c)(2) (42  
13                   U.S.C. 1395i-4(c)(2)) is amended by adding at the  
14                   end the following:

15                   “(E) AUTHORITY TO ESTABLISH PSY-  
16                   CHIATRIC AND REHABILITATION DISTINCT PART  
17                   UNITS.—

18                   “(i) IN GENERAL.—Subject to the  
19                   succeeding provisions of this subparagraph,  
20                   a critical access hospital may establish—

21                   “(I) a psychiatric unit of the hos-  
22                   pital that is a distinct part of the hos-  
23                   pital; and

1                   “(II) a rehabilitation unit of the  
2                   hospital that is a distinct part of the  
3                   hospital,  
4                   if the distinct part meets the requirements  
5                   (including conditions of participation) that  
6                   would otherwise apply to the distinct part  
7                   if the distinct part were established by a  
8                   subsection (d) hospital in accordance with  
9                   the matter following clause (v) of section  
10                  1886(d)(1)(B), including any regulations  
11                  adopted by the Secretary under such sec-  
12                  tion.

13                  “(ii) LIMITATION ON NUMBER OF  
14                  BEDS.—The total number of beds that  
15                  may be established under clause (i) for a  
16                  distinct part unit may not exceed 10.

17                  “(iii) EXCLUSION OF BEDS FROM BED  
18                  COUNT.—In determining the number of  
19                  beds of a critical access hospital for pur-  
20                  poses of applying the bed limitations re-  
21                  ferred to in subparagraph (B)(iii) and sub-  
22                  section (f), the Secretary shall not take  
23                  into account any bed established under  
24                  clause (i).

1                   “(iv) EFFECT OF FAILURE TO MEET  
2                   REQUIREMENTS.—If a psychiatric or reha-  
3                   bilitation unit established under clause (i)  
4                   does not meet the requirements described  
5                   in such clause with respect to a cost re-  
6                   porting period, no payment may be made  
7                   under this title to the hospital for services  
8                   furnished in such unit during such period.  
9                   Payment to the hospital for services fur-  
10                  nished in the unit may resume only after  
11                  the hospital has demonstrated to the Sec-  
12                  retary that the unit meets such require-  
13                  ments.”.

14                  (2) PAYMENT ON A PROSPECTIVE PAYMENT  
15                  BASIS.—Section 1814(l) (42 U.S.C. 1395f(l)) is  
16                  amended—

17                         (A) by striking “(l) The amount” and in-  
18                         serting “(l)(1) Except as provided in paragraph  
19                         (2), the amount”; and

20                         (B) by adding at the end the following new  
21                         paragraph:

22                         “(2) In the case of a distinct part psychiatric or reha-  
23                         bilitation unit of a critical access hospital described in sec-  
24                         tion 1820(c)(2)(E), the amount of payment for inpatient  
25                         critical access hospital services of such unit shall be equal

1 to the amount of the payment that would otherwise be  
2 made if such services were inpatient hospital services of  
3 a distinct part psychiatric or rehabilitation unit, respec-  
4 tively, described in the matter following clause (v) of sec-  
5 tion 1886(d)(1)(B).”.

6 (3) EFFECTIVE DATE.—The amendments made  
7 by this subsection shall apply to cost reporting peri-  
8 ods beginning on or after October 1, 2004.

9 (h) WAIVER AUTHORITY.—

10 (1) IN GENERAL.—Section 1820(c)(2)(B)(i)(II)  
11 (42 U.S.C. 1395i–4(c)(2)(B)(i)(II)) is amended by  
12 inserting “before January 1, 2006,” after “is cer-  
13 tified”.

14 (2) GRANDFATHERING WAIVER AUTHORITY FOR  
15 CERTAIN FACILITIES.—Section 1820(h) (42 U.S.C.  
16 1395i–4(h)) is amended—

17 (A) in the heading preceding paragraph  
18 (1), by striking “OF CERTAIN FACILITIES” and  
19 inserting “PROVISIONS”; and

20 (B) by adding at the end the following new  
21 paragraph:

22 “(3) STATE AUTHORITY TO WAIVE 35-MILE  
23 RULE.—In the case of a facility that was designated  
24 as a critical access hospital before January 1, 2006,  
25 and was certified by the State as being a necessary

1 provider of health care services to residents in the  
2 area under subsection (c)(2)(B)(i)(II), as in effect  
3 before such date, the authority under such sub-  
4 section with respect to any redesignation of such fa-  
5 cility shall continue to apply notwithstanding the  
6 amendment made by section 105(h)(1) of the Rural  
7 Healthcare Improvement Act of 2003.”.

8 **SEC. 106. MEDICARE INPATIENT HOSPITAL PAYMENT AD-**  
9 **JUSTMENT FOR LOW-VOLUME HOSPITALS.**

10 (a) IN GENERAL.—Section 1886(d) (42 U.S.C.  
11 1395ww(d)) is amended by adding at the end the following  
12 new paragraph:

13 “(12) PAYMENT ADJUSTMENT FOR LOW-VOL-  
14 UME HOSPITALS.—

15 “(A) IN GENERAL.—In addition to any  
16 payments calculated under this section for a  
17 subsection (d) hospital, for discharges occurring  
18 during a fiscal year (beginning with fiscal year  
19 2005), the Secretary shall provide for an addi-  
20 tional payment amount to each low-volume hos-  
21 pital (as defined in subparagraph (C)(i)) for  
22 discharges occurring during that fiscal year  
23 that is equal to the applicable percentage in-  
24 crease (determined under subparagraph (B) for  
25 the hospital involved) in the amount paid to

1 such hospital under this section for such dis-  
2 charges (determined without regard to this  
3 paragraph).

4 “(B) APPLICABLE PERCENTAGE IN-  
5 CREASE.—The Secretary shall determine an ap-  
6 plicable percentage increase for purposes of  
7 subparagraph (A) as follows:

8 “(i) The Secretary shall determine the  
9 empirical relationship for subsection (d)  
10 hospitals between the standardized cost-  
11 per-case for such hospitals and the total  
12 number of discharges of such hospitals and  
13 the amount of the additional incremental  
14 costs (if any) that are associated with such  
15 number of discharges.

16 “(ii) The applicable percentage in-  
17 crease shall be determined based upon  
18 such relationship in a manner that reflects,  
19 based upon the number of such discharges  
20 for a subsection (d) hospital, such addi-  
21 tional incremental costs.

22 “(iii) In no case shall the applicable  
23 percentage increase exceed 25 percent.

24 “(C) DEFINITIONS.—

1           “(i) LOW-VOLUME HOSPITAL.—For  
2           purposes of this paragraph, the term ‘low-  
3           volume hospital’ means, for a fiscal year, a  
4           subsection (d) hospital (as defined in para-  
5           graph (1)(B)) that the Secretary deter-  
6           mines is located more than 25 road miles  
7           from another subsection (d) hospital and  
8           has less than 800 discharges during the  
9           fiscal year.

10           “(ii) DISCHARGE.—For purposes of  
11           subparagraph (B) and clause (i), the term  
12           ‘discharge’ means an inpatient acute care  
13           discharge of an individual regardless of  
14           whether the individual is entitled to bene-  
15           fits under part A.”.

16           (b) JUDICIAL REVIEW.—Section 1886(d)(7)(A) (42  
17 U.S.C. 1395ww(d)(7)(A)) is amended by inserting after  
18 “to subsection (e)(1)” the following: “or the determination  
19 of the applicable percentage increase under paragraph  
20 (12)(A)(ii)”.

21 **SEC. 107. TREATMENT OF MISSING COST REPORTING PERI-**  
22 **ODS FOR SOLE COMMUNITY HOSPITALS.**

23           (a) IN GENERAL.—Section 1886(b)(3)(I) (42 U.S.C.  
24 1395ww(b)(3)(I)) is amended by adding at the end the  
25 following new clause:

1       “(iii) In no case shall a hospital be denied treatment  
2 as a sole community hospital or payment (on the basis  
3 of a target rate as such as a hospital) because data are  
4 unavailable for any cost reporting period due to changes  
5 in ownership, changes in fiscal intermediaries, or other ex-  
6 traordinary circumstances, so long as data for at least one  
7 applicable base cost reporting period is available.”.

8       (b) EFFECTIVE DATE.—The amendment made by  
9 subsection (a) shall apply to cost reporting periods begin-  
10 ning on or after January 1, 2004.

11 **SEC. 108. RECOGNITION OF ATTENDING NURSE PRACTI-**  
12 **TIONERS AS ATTENDING PHYSICIANS TO**  
13 **SERVE HOSPICE PATIENTS.**

14       (a) IN GENERAL.—Section 1861(dd)(3)(B) (42  
15 U.S.C. 1395x(dd)(3)(B)) is amended by inserting “or  
16 nurse practitioner (as defined in subsection (aa)(5))” after  
17 “the physician (as defined in subsection (r)(1))”.

18       (b) CLARIFICATION OF HOSPICE ROLE OF NURSE  
19 PRACTITIONERS.—Section 1814(a)(7)(A)(i)(I) (42 U.S.C.  
20 1395f(a)(7)(A)(i)(I)) is amended by inserting “(which for  
21 purposes of this subparagraph does not include a nurse  
22 practitioner)” after “attending physician (as defined in  
23 section 1861(dd)(3)(B))”.

1 **SEC. 109. RURAL HOSPICE DEMONSTRATION PROJECT.**

2 (a) IN GENERAL.—The Secretary shall conduct a  
3 demonstration project for the delivery of hospice care to  
4 medicare beneficiaries in rural areas. Under the project  
5 medicare beneficiaries who are unable to receive hospice  
6 care in the facility for lack of an appropriate caregiver  
7 are provided such care in a facility of 20 or fewer beds  
8 which offers, within its walls, the full range of services  
9 provided by hospice programs under section 1861(dd) of  
10 the Social Security Act (42 U.S.C. 1395x(dd)).

11 (b) SCOPE OF PROJECT.—The Secretary shall con-  
12 duct the project under this section with respect to no more  
13 than 3 hospice programs over a period of not longer than  
14 5 years each.

15 (c) COMPLIANCE WITH CONDITIONS.—Under the  
16 demonstration project—

17 (1) the hospice program shall comply with oth-  
18 erwise applicable requirements, except that it shall  
19 not be required to offer services outside of the home  
20 or to meet the requirements of section  
21 1861(dd)(2)(A)(iii) of the Social Security Act; and

22 (2) payments for hospice care shall be made at  
23 the rates otherwise applicable to such care under  
24 title XVIII of such Act.

25 The Secretary may require the program to comply with  
26 such additional quality assurance standards for its provi-

1 sion of services in its facility as the Secretary deems ap-  
2 propriate.

3 (d) REPORT.—Upon completion of the project, the  
4 Secretary shall submit a report to Congress on the project  
5 and shall include in the report recommendations regarding  
6 extension of such project to hospice programs serving  
7 rural areas.

8 **SEC. 110. EXCLUSION OF CERTAIN RURAL HEALTH CLINIC**  
9 **AND FEDERALLY QUALIFIED HEALTH CEN-**  
10 **TER SERVICES FROM THE PROSPECTIVE PAY-**  
11 **MENT SYSTEM FOR SKILLED NURSING FA-**  
12 **CILITIES.**

13 (a) IN GENERAL.—Section 1888(e)(2)(A) (42 U.S.C.  
14 1395yy(e)(2)(A)) is amended—

15 (1) in clause (i)(II), by striking “clauses (ii)  
16 and (iii)” and inserting “clauses (ii), (iii), and (iv)”;  
17 and

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

20 “(iv) EXCLUSION OF CERTAIN RURAL  
21 HEALTH CLINIC AND FEDERALLY QUALI-  
22 FIED HEALTH CENTER SERVICES.—Serv-  
23 ices described in this clause are—

1                   “(I) rural health clinic services  
2                   (as defined in paragraph (1) of sec-  
3                   tion 1861(aa)); and

4                   “(II) Federally qualified health  
5                   center services (as defined in para-  
6                   graph (3) of such section);

7                   that would be described in clause (ii) if  
8                   such services were not furnished by an in-  
9                   dividual affiliated with a rural health clinic  
10                  or a Federally qualified health center.”.

11               (b) **EFFECTIVE DATE.**—The amendments made by  
12 subsection (a) shall apply to services furnished on or after  
13 January 1, 2005.

14 **SEC. 111. RURAL COMMUNITY HOSPITAL DEMONSTRATION**  
15 **PROGRAM.**

16               (a) **ESTABLISHMENT OF RURAL COMMUNITY HOS-**  
17 **PITAL (RCH) DEMONSTRATION PROGRAM.**—

18                   (1) **IN GENERAL.**—The Secretary shall establish  
19 a demonstration program to test the feasibility and  
20 advisability of the establishment of rural community  
21 hospitals (as defined in subsection (f)(1)) to furnish  
22 covered inpatient hospital services (as defined in  
23 subsection (f)(2)) to medicare beneficiaries.

24                   (2) **DEMONSTRATION AREAS.**—The program  
25 shall be conducted in rural areas selected by the Sec-

1       retary in States with low population densities, as de-  
2       termined by the Secretary.

3           (3) APPLICATION.—Each rural community hos-  
4       pital that is located in a demonstration area selected  
5       under paragraph (2) that desires to participate in  
6       the demonstration program under this section shall  
7       submit an application to the Secretary at such time,  
8       in such manner, and containing such information as  
9       the Secretary may require.

10          (4) SELECTION OF HOSPITALS.—The Secretary  
11       shall select from among rural community hospitals  
12       submitting applications under paragraph (3) not  
13       more than 15 of such hospitals to participate in the  
14       demonstration program under this section.

15          (5) DURATION.—The Secretary shall conduct  
16       the demonstration program under this section for a  
17       5-year period.

18          (6) IMPLEMENTATION.—The Secretary shall  
19       implement the demonstration program not later than  
20       January 1, 2005, but may not implement the pro-  
21       gram before October 1, 2004.

22       (b) PAYMENT.—

23           (1) IN GENERAL.—The amount of payment  
24       under the demonstration program for covered inpa-  
25       tient hospital services furnished in a rural commu-

1 nity hospital, other than such services furnished in  
2 a psychiatric or rehabilitation unit of the hospital  
3 which is a distinct part, is—

4 (A) for discharges occurring in the first  
5 cost reporting period beginning on or after the  
6 implementation of the demonstration program,  
7 the reasonable costs of providing such services;  
8 and

9 (B) for discharges occurring in a subse-  
10 quent cost reporting period under the dem-  
11 onstration program, the lesser of—

12 (i) the reasonable costs of providing  
13 such services in the cost reporting period  
14 involved; or

15 (ii) the target amount (as defined in  
16 paragraph (2)), applicable to the cost re-  
17 porting period involved.

18 (2) TARGET AMOUNT.—For purposes of para-  
19 graph (1)(B)(ii), the term “target amount” means,  
20 with respect to a rural community hospital for a  
21 particular 12-month cost reporting period—

22 (A) in the case of the second such report-  
23 ing period for which this subsection is in effect,  
24 the reasonable costs of providing such covered

1           inpatient hospital services as determined under  
2           paragraph (1)(A), and

3                   (B) in the case of a later reporting period,  
4           the target amount for the preceding 12-month  
5           cost reporting period,

6           increased by the applicable percentage increase  
7           (under clause (i) of section 1886(b)(3)(B) of the So-  
8           cial Security Act (42 U.S.C. 1395ww(b)(3)(B))) in  
9           the market basket percentage increase (as defined in  
10          clause (iii) of such section) for that particular cost  
11          reporting period.

12          (c) FUNDING.—

13               (1) IN GENERAL.—The Secretary shall provide  
14           for the transfer from the Federal Hospital Insurance  
15           Trust Fund under section 1817 of the Social Secu-  
16           rity Act (42 U.S.C. 1395i) of such funds as are nec-  
17           essary for the costs of carrying out the demonstra-  
18           tion program under this section.

19               (2) BUDGET NEUTRALITY.—In conducting the  
20           demonstration program under this section, the Sec-  
21           retary shall ensure that the aggregate payments  
22           made by the Secretary do not exceed the amount  
23           which the Secretary would have paid if the dem-  
24           onstration program under this section was not im-  
25           plemented.

1 (d) WAIVER AUTHORITY.—The Secretary may waive  
2 such requirements of title XVIII of the Social Security Act  
3 (42 U.S.C. 1395 et seq.) as may be necessary for the pur-  
4 pose of carrying out the demonstration program under  
5 this section.

6 (e) REPORT.—Not later than 6 months after the  
7 completion of the demonstration program under this sec-  
8 tion, the Secretary shall submit to Congress a report on  
9 such program, together with recommendations for such  
10 legislation and administrative action as the Secretary de-  
11 termines to be appropriate.

12 (f) DEFINITIONS.—In this section:

13 (1) RURAL COMMUNITY HOSPITAL DEFINED.—

14 (A) IN GENERAL.—The term “rural com-  
15 munity hospital” means a hospital (as defined  
16 in section 1861(e) of the Social Security Act  
17 (42 U.S.C. 1395x(e))) that—

18 (i) is located in a rural area (as de-  
19 fined in section 1886(d)(2)(D) of such Act  
20 (42 U.S.C. 1395ww(d)(2)(D))) or treated  
21 as being so located pursuant to section  
22 1886(d)(8)(E) of such Act (42 U.S.C.  
23 1395ww(d)(8)(E));

1 (ii) subject to paragraph (2), has  
2 fewer than 51 acute care inpatient beds, as  
3 reported in its most recent cost report;

4 (iii) makes available 24-hour emer-  
5 gency care services; and

6 (iv) is not eligible for designation, or  
7 has not been designated, as a critical ac-  
8 cess hospital under section 1820.

9 (B) TREATMENT OF PSYCHIATRIC AND RE-  
10 HABILITATION UNITS.—For purposes of para-  
11 graph (1)(B), beds in a psychiatric or rehabili-  
12 tation unit of the hospital which is a distinct  
13 part of the hospital shall not be counted.

14 (2) COVERED INPATIENT HOSPITAL SERV-  
15 ICES.—The term “covered inpatient hospital serv-  
16 ices” means inpatient hospital services, and includes  
17 extended care services furnished under an agreement  
18 under section 1883 of the Social Security Act (42  
19 U.S.C. 1395tt).

20 **SEC. 112. WAGE INDEX ADJUSTMENT RECLASSIFICATION**  
21 **REFORM.**

22 (a) IN GENERAL.—Section 1886(d) (42 U.S.C.  
23 1395ww(d)), as amended by section 106, is amended by  
24 adding at the end the following new paragraph:

1           “(13)(A) In order to recognize commuting patterns  
2 among geographic areas, the Secretary shall establish a  
3 process through application or otherwise for an increase  
4 of the wage index applied under paragraph (3)(E) for sub-  
5 section (d) hospitals located in a qualifying county de-  
6 scribed in subparagraph (B) in the amount computed  
7 under subparagraph (D) based on out-migration of hos-  
8 pital employees who reside in that county to any higher  
9 wage index area.

10           “(B) The Secretary shall establish criteria for a  
11 qualifying county under this subparagraph based on the  
12 out-migration referred to in subparagraph (A) and dif-  
13 ferences in the area wage indices. Under such criteria the  
14 Secretary shall, utilizing such data as the Secretary deter-  
15 mines to be appropriate, establish—

16           “(i) a threshold percentage, established by the  
17 Secretary, of the weighted average of the area wage  
18 index or indices for the higher wage index areas in-  
19 volved;

20           “(ii) a threshold (of not less than 10 percent)  
21 for minimum out-migration to a higher wage index  
22 area or areas; and

23           “(iii) a requirement that the average hourly  
24 wage of the hospitals in the qualifying county equals  
25 or exceeds the average hourly wage of all the hos-

1       pitals in the area in which the qualifying county is  
2       located.

3       “(C) For purposes of this paragraph, the term ‘high-  
4       er wage index area’ means, with respect to a county, an  
5       area with a wage index that exceeds that of the county.

6       “(D) The increase in the wage index under subpara-  
7       graph (A) for a qualifying county shall be equal to the  
8       percentage of the hospital employees residing in the quali-  
9       fying county who are employed in any higher wage index  
10      area multiplied by the sum of the products, for each higher  
11      wage index area of—

12             “(i) the difference between—

13                 “(I) the wage index for such higher wage  
14                 index area, and

15                 “(II) the wage index of the qualifying  
16                 county; and

17             “(ii) the number of hospital employees residing  
18             in the qualifying county who are employed in such  
19             higher wage index area divided by the total number  
20             of hospital employees residing in the qualifying  
21             county who are employed in any higher wage index  
22             area.

23       “(E) The process under this paragraph may be based  
24       upon the process used by the Medicare Geographic Classi-  
25       fication Review Board under paragraph (10). As the Sec-

1   retary determines to be appropriate to carry out such  
2   process, the Secretary may require hospitals (including  
3   subsection (d) hospitals and other hospitals) and critical  
4   access hospitals, as required under section 1866(a)(1)(T),  
5   to submit data regarding the location of residence, or the  
6   Secretary may use data from other sources.

7       “(F) A wage index increase under this paragraph  
8   shall be effective for a period of 3 fiscal years, except that  
9   the Secretary shall establish procedures under which a  
10   subsection (d) hospital may elect to waive the application  
11   of such wage index increase.

12       “(G) A hospital in a county that has a wage index  
13   increase under this paragraph for a period and that has  
14   not waived the application of such an increase under sub-  
15   paragraph (F) is not eligible for reclassification under  
16   paragraph (8) or (10) during that period.

17       “(H) Any increase in a wage index under this para-  
18   graph for a county shall not be taken into account for  
19   purposes of—

20           “(i) computing the wage index for portions of  
21   the wage index area (not including the county) in  
22   which the county is located; or

23           “(ii) applying any budget neutrality adjustment  
24   with respect to such index under paragraph (8)(D).

1 “(I) The thresholds described in subparagraph (B),  
2 data on hospital employees used under this paragraph,  
3 and any determination of the Secretary under the process  
4 described in subparagraph (E) shall be final and shall not  
5 be subject to judicial review.”.

6 (b) CONFORMING AMENDMENTS.—Section  
7 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

8 (1) in subparagraph (R), by striking “and” at  
9 the end;

10 (2) in subparagraph (S), by striking the period  
11 at the end and inserting “, and”; and

12 (3) by inserting after subparagraph (S) the fol-  
13 lowing new subparagraph:

14 “(T) in the case of hospitals and critical access  
15 hospitals, to furnish to the Secretary such data as  
16 the Secretary determines appropriate pursuant to  
17 subparagraph (E) of section 1886(d)(12) to carry  
18 out such section.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall first apply to the wage index for dis-  
21 charges occurring on or after October 1, 2004. In initially  
22 implementing such amendments, the Secretary may mod-  
23 ify the deadlines otherwise applicable under clauses (ii)  
24 and (iii)(I) of section 1886(d)(10)(C) of the Social Secu-  
25 rity Act (42 U.S.C. 1395ww(d)(10)(C)), for submission of,

1 and actions on, applications relating to changes in hospital  
2 geographic reclassification.

3 **SEC. 113. REVISION OF THE INDIRECT MEDICAL EDU-**  
4 **CATION (IME) ADJUSTMENT PERCENTAGE.**

5 (a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42  
6 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

7 (1) in subclause (VI), by striking “and” after  
8 the semicolon at the end;

9 (2) in subclause (VII)—

10 (A) by inserting “and before April 1,  
11 2004,” after “on or after October 1, 2002,”;  
12 and

13 (B) by striking the period at the end and  
14 inserting a semicolon; and

15 (3) by adding at the end the following new sub-  
16 clauses:

17 “(VIII) on or after April 1, 2004, and be-  
18 fore October 1, 2004, ‘c’ is equal to 1.47;

19 “(IX) during fiscal year 2005, ‘c’ is equal  
20 to 1.42;

21 “(X) during fiscal year 2006, ‘c’ is equal  
22 to 1.37;

23 “(XI) during fiscal year 2007, ‘c’ is equal  
24 to 1.32; and

1                   “(XII) on or after October 1, 2007, ‘c’ is  
2                   equal to 1.35.”.

3           (b) CONFORMING AMENDMENT RELATING TO DE-  
4 TERMINATION OF STANDARDIZED AMOUNT.—Section  
5 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is  
6 amended—

7           (1) by striking “1999 or” and inserting  
8           “1999,”; and

9           (2) by inserting “, or the Medicare Prescription  
10 Drug, Improvement, and Modernization Act of  
11 2003” after “2000”.

12       (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to discharges occurring on or after  
14 April 1, 2004.

15 **SEC. 114. INCREASE IN FEDERAL RATE FOR HOSPITALS IN**  
16 **PUERTO RICO.**

17       Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is  
18 amended—

19           (1) in subparagraph (A)—

20                   (A) in clause (i), by striking “for dis-  
21 charges beginning on or after October 1, 1997,  
22 50 percent (and for discharges between October  
23 1, 1987, and September 30, 1997, 75 percent)”  
24 and inserting “the applicable Puerto Rico per-  
25 centage (specified in subparagraph (E))”; and

1 (B) in clause (ii), by striking “for dis-  
2 charges beginning in a fiscal year beginning on  
3 or after October 1, 1997, 50 percent (and for  
4 discharges between October 1, 1987, and Sep-  
5 tember 30, 1997, 25 percent)” and inserting  
6 “the applicable Federal percentage (specified in  
7 subparagraph (E))”; and

8 (2) by adding at the end the following new sub-  
9 paragraph:

10 “(E) For purposes of subparagraph (A), for dis-  
11 charges occurring—

12 “(i) on or after October 1, 1987, and before Oc-  
13 tober 1, 1997, the applicable Puerto Rico percentage  
14 is 75 percent and the applicable Federal percentage  
15 is 25 percent;

16 “(ii) on or after October 1, 1997, and before  
17 April 1, 2004, the applicable Puerto Rico percentage  
18 is 50 percent and the applicable Federal percentage  
19 is 50 percent;

20 “(iii) on or after April 1, 2004, and before Oc-  
21 tober 1, 2004, the applicable Puerto Rico percentage  
22 is 37.5 percent and the applicable Federal percent-  
23 age is 62.5 percent; and

1           “(iv) on or after October 1, 2004, the applica-  
2           ble Puerto Rico percentage is 25 percent and the ap-  
3           plicable Federal percentage is 75 percent.”.

4 **SEC. 115. CLARIFICATIONS TO CERTAIN EXCEPTIONS TO**  
5                   **MEDICARE LIMITS ON PHYSICIAN REFER-**  
6                   **RALS.**

7           (a) LIMITS ON PHYSICIAN REFERRALS.—

8                   (1) OWNERSHIP AND INVESTMENT INTERESTS  
9           IN WHOLE HOSPITALS.—

10                   (A) IN GENERAL.—Section 1877(d)(3) (42  
11           U.S.C. 1395nn(d)(3)) is amended—

12                           (i) by striking “, and” at the end of  
13                   subparagraph (A) and inserting a semi-  
14                   colon; and

15                           (ii) by redesignating subparagraph  
16                   (B) as subparagraph (C) and inserting  
17                   after subparagraph (A) the following new  
18                   subparagraph:

19                           “(B) effective for the 18-month period be-  
20                   ginning on November 18, 2003, the hospital is  
21                   not a specialty hospital (as defined in sub-  
22                   section (h)(7)); and”.

23                   (B) DEFINITION.—Section 1877(h) (42  
24           U.S.C. 1395nn(h)) is amended by adding at the  
25           end the following:

1 “(7) SPECIALTY HOSPITAL.—

2 “(A) IN GENERAL.—For purposes of this  
3 section, except as provided in subparagraph  
4 (B), the term ‘specialty hospital’ means a sub-  
5 section (d) hospital that is primarily or exclu-  
6 sively engaged in the care and treatment of one  
7 of the following categories:

8 “(i) Patients with a cardiac condition.

9 “(ii) Patients with an orthopedic con-  
10 dition.

11 “(iii) Patients receiving a surgical  
12 procedure.

13 “(iv) Any other specialized category of  
14 services that the Secretary designates as  
15 inconsistent with the purpose of permitting  
16 physician ownership and investment inter-  
17 ests in a hospital under this section.

18 “(B) EXCEPTION.—For purposes of this  
19 section, the term ‘specialty hospital’ does not  
20 include any hospital—

21 “(i) determined by the Secretary—

22 “(I) to be in operation before No-  
23 vember 18, 2003; or

24 “(II) under development as of  
25 such date;

1           “(ii) for which the number of physi-  
2           cian investors at any time on or after such  
3           date is no greater than the number of such  
4           investors as of such date;

5           “(iii) for which the type of categories  
6           described in subparagraph (A) at any time  
7           on or after such date is no different than  
8           the type of such categories as of such date;

9           “(iv) for which any increase in the  
10          number of beds occurs only in the facilities  
11          on the main campus of the hospital and  
12          does not exceed 50 percent of the number  
13          of beds in the hospital as of November 18,  
14          2003, or 5 beds, whichever is greater; and

15          “(v) that meets such other require-  
16          ments as the Secretary may specify.”.

17               (2) OWNERSHIP AND INVESTMENT INTERESTS  
18          IN A RURAL PROVIDER.—Section 1877(d)(2) (42  
19          U.S.C. 1395nn(d)(2)) is amended to read as follows:

20               “(2) RURAL PROVIDERS.—In the case of des-  
21          ignated health services furnished in a rural area (as  
22          defined in section 1886(d)(2)(D)) by an entity, if—

23               “(A) substantially all of the designated  
24          health services furnished by the entity are fur-

1 nished to individuals residing in such a rural  
2 area; and

3 “(B) effective for the 18-month period be-  
4 ginning on November 18, 2003, the entity is  
5 not a specialty hospital (as defined in sub-  
6 section (h)(7)).”.

7 (b) APPLICATION OF EXCEPTION FOR HOSPITALS  
8 UNDER DEVELOPMENT.—For purposes of section  
9 1877(h)(7)(B)(i)(II) of the Social Security Act, as added  
10 by subsection (a)(1)(B), in determining whether a hospital  
11 is under development as of November 18, 2003, the Sec-  
12 retary shall consider—

13 (1) whether architectural plans have been com-  
14 pleted, funding has been received, zoning require-  
15 ments have been met, and necessary approvals from  
16 appropriate State agencies have been received; and

17 (2) any other evidence the Secretary determines  
18 would indicate whether a hospital is under develop-  
19 ment as of such date.

20 (c) STUDIES.—

21 (1) MEDPAC STUDY.—The Medicare Payment  
22 Advisory Commission, in consultation with the  
23 Comptroller General of the United States, shall con-  
24 duct a study to determine—

1 (A) any differences in the costs of health  
2 care services furnished to patients by physician-  
3 owned specialty hospitals and the costs of such  
4 services furnished by local full-service commu-  
5 nity hospitals within specific diagnosis-related  
6 groups;

7 (B) the extent to which specialty hospitals,  
8 relative to local full-service community hos-  
9 pitals, treat patients in certain diagnosis-related  
10 groups within a category, such as cardiology,  
11 and an analysis of the selection;

12 (C) the financial impact of physician-  
13 owned specialty hospitals on local full-service  
14 community hospitals;

15 (D) how the current diagnosis-related  
16 group system should be updated to better re-  
17 flect the cost of delivering care in a hospital  
18 setting; and

19 (E) the proportions of payments received,  
20 by type of payer, between the specialty hospitals  
21 and local full-service community hospitals.

22 (2) HHS STUDY.—The Secretary shall conduct  
23 a study of a representative sample of specialty hos-  
24 pitals—

1 (A) to determine the percentage of patients  
2 admitted to physician-owned specialty hospitals  
3 who are referred by physicians with an owner-  
4 ship interest;

5 (B) to determine the referral patterns of  
6 physician owners, including the percentage of  
7 patients they referred to physician-owned spe-  
8 cialty hospitals and the percentage of patients  
9 they referred to local full-service community  
10 hospitals for the same condition;

11 (C) to compare the quality of care fur-  
12 nished in physician-owned specialty hospitals  
13 and in local full-service community hospitals for  
14 similar conditions and patient satisfaction with  
15 such care; and

16 (D) to assess the differences in uncompen-  
17 sated care, as defined by the Secretary, between  
18 the specialty hospital and local full-service com-  
19 munity hospitals, and the relative value of any  
20 tax exemption available to such hospitals.

21 (3) REPORTS.—Not later than 15 months after  
22 the date of the enactment of this Act, the Commis-  
23 sion and the Secretary, respectively, shall each sub-  
24 mit to Congress a report on the studies conducted  
25 under paragraphs (1) and (2), respectively, and shall

1 include any recommendations for legislation or ad-  
2 ministrative changes.

3 **SEC. 116. 1-TIME APPEALS PROCESS FOR HOSPITAL WAGE**

4 **INDEX CLASSIFICATION.**

5 (a) ESTABLISHMENT OF PROCESS.—

6 (1) IN GENERAL.—The Secretary shall establish  
7 by instruction or otherwise a process under which a  
8 hospital may appeal the wage index classification  
9 otherwise applicable to the hospital and select an-  
10 other area within the State (or, at the discretion of  
11 the Secretary, within a contiguous State) to which to  
12 be reclassified.

13 (2) PROCESS REQUIREMENTS.—The process es-  
14 tablished under paragraph (1) shall be consistent  
15 with the following:

16 (A) Such an appeal shall be filed by not  
17 later than April 1, 2004.

18 (B) Such an appeal shall be heard by the  
19 Medicare Geographic Reclassification Review  
20 Board.

21 (C) There shall be no further administra-  
22 tive or judicial review of a decision of such  
23 Board.

24 (3) RECLASSIFICATION UPON SUCCESSFUL AP-  
25 PEAL.—If the Medicare Geographic Reclassification

1 Review Board determines that the hospital is a  
2 qualifying hospital (as defined in subsection (c)), the  
3 hospital shall be reclassified to the area selected  
4 under paragraph (1). Such reclassification shall  
5 apply with respect to discharges occurring during  
6 the 3-fiscal-year period beginning with fiscal year  
7 2005.

8 (4) INAPPLICABILITY OF CERTAIN PROVI-  
9 SIONS.—Except as the Secretary may provide, the  
10 provisions of paragraphs (8) and (10) of section  
11 1886(d) of the Social Security Act (42 U.S.C.  
12 1395ww(d)) shall not apply to an appeal under this  
13 section.

14 (b) APPLICATION OF RECLASSIFICATION.—In the  
15 case of an appeal decided in favor of a qualifying hospital  
16 under subsection (a), the wage index reclassification shall  
17 not affect the wage index computation for any area or for  
18 any other hospital and shall not be effected in a budget  
19 neutral manner. The provisions of this section shall not  
20 affect payment for discharges occurring after the end of  
21 the 3-fiscal-year period referred to in subsection (a).

22 (c) QUALIFYING HOSPITAL DEFINED.—For purposes  
23 of this section, the term “qualifying hospital” means a  
24 subsection (d) hospital (as defined in section

1 1886(d)(1)(B) of the Social Security Act, 42 U.S.C.  
2 1395ww(d)(1)(B)) that—

3 (1) does not qualify for a change in wage index  
4 classification under paragraph (8) or (10) of section  
5 1886(d) of the Social Security Act (42 U.S.C.  
6 1395ww(d)) on the basis of requirements relating to  
7 distance or commuting; and

8 (2) meets such other criteria, such as quality,  
9 as the Secretary may specify by instruction or other-  
10 wise.

11 The Secretary may modify the wage comparison guidelines  
12 promulgated under section 1886(d)(10)(D) of such Act  
13 (42 U.S.C. 1395ww(d)(10)(D)) in carrying out this sec-  
14 tion.

15 (d) WAGE INDEX CLASSIFICATION.—For purposes of  
16 this section, the term “wage index classification” means  
17 the geographic area in which it is classified for purposes  
18 of determining for a fiscal year the factor used to adjust  
19 the DRG prospective payment rate under section 1886(d)  
20 of the Social Security Act (42 U.S.C. 1395ww(d)) for area  
21 differences in hospital wage levels that applies to such hos-  
22 pital under paragraph (3)(E) of such section.

23 (e) LIMITATION ON EXPENDITURES.—The aggregate  
24 amount of additional expenditures resulting from the ap-  
25 plication of this section shall not exceed \$500,000,000.

1 **SEC. 117. STUDY ON PORTABLE DIAGNOSTIC ULTRASOUND**  
2 **SERVICES FOR BENEFICIARIES IN SKILLED**  
3 **NURSING FACILITIES.**

4 (a) STUDY.—The Comptroller General of the United  
5 States shall conduct a study of portable diagnostic  
6 ultrasound services furnished to medicare beneficiaries in  
7 skilled nursing facilities. Such study shall consider the fol-  
8 lowing:

9 (1) TYPES OF EQUIPMENT; TRAINING.—The  
10 types of portable diagnostic ultrasound services fur-  
11 nished to such beneficiaries, the types of portable  
12 ultrasound equipment used to furnish such services,  
13 and the technical skills, or training, or both, re-  
14 quired for technicians to furnish such services.

15 (2) CLINICAL APPROPRIATENESS.—The clinical  
16 appropriateness of transporting portable diagnostic  
17 ultrasound diagnostic and technicians to patients in  
18 skilled nursing facilities as opposed to transporting  
19 such patients to a hospital or other facility that fur-  
20 nishes diagnostic ultrasound services.

21 (3) FINANCIAL IMPACT.—The financial impact  
22 if Medicare were make a separate payment for port-  
23 able ultrasound diagnostic services, including the im-  
24 pact of separate payments—

25 (A) for transportation and technician serv-  
26 ices for residents during a resident in a part A

1 stay, that would otherwise be paid for under the  
 2 prospective payment system for covered skilled  
 3 nursing facility services (under section 1888(e)  
 4 of the Social Security Act (42 U.S.C.  
 5 1395yy(e)); and

6 (B) for such services for residents in a  
 7 skilled nursing facility after a part A stay.

8 (4) CREDENTIALING REQUIREMENTS.—Whether  
 9 the Secretary should establish credentialing or other  
 10 requirements for technicians that furnish diagnostic  
 11 ultrasound services to medicare beneficiaries.

12 (b) REPORT.—Not later than 2 years after the date  
 13 of the enactment of this Act, the Comptroller General shall  
 14 submit to Congress a report on the study conducted under  
 15 subsection (a), and shall include any recommendations for  
 16 legislation or administrative change as the Comptroller  
 17 General determines appropriate.

18 **TITLE II—PROVISIONS**  
 19 **RELATING TO PART B ONLY**

20 **SEC. 201. REVISION OF UPDATES FOR PHYSICIANS' SERV-**  
 21 **ICES.**

22 (a) UPDATE FOR 2004 AND 2005.—

23 (1) IN GENERAL.—Section 1848(d) (42 U.S.C.  
 24 1395w-4(d)) is amended by adding at the end the  
 25 following new paragraph:

1           “(5) UPDATE FOR 2004 AND 2005.—The update  
2           to the single conversion factor established in para-  
3           graph (1)(C) for each of 2004 and 2005 shall be not  
4           less than 1.5 percent.”.

5           (2) CONFORMING AMENDMENT.—Paragraph  
6           (4)(B) of such section is amended, in the matter be-  
7           fore clause (i), by inserting “and paragraph (5)”  
8           after “subparagraph (D)”.

9           (3) NOT TREATED AS CHANGE IN LAW AND  
10          REGULATION IN SUSTAINABLE GROWTH RATE DE-  
11          TERMINATION.—The amendments made by this sub-  
12          section shall not be treated as a change in law for  
13          purposes of applying section 1848(f)(2)(D) of the  
14          Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)).

15          (b) USE OF 10-YEAR ROLLING AVERAGE IN COM-  
16          PUTING GROSS DOMESTIC PRODUCT.—

17               (1) IN GENERAL.—Section 1848(f)(2)(C) (42  
18               U.S.C. 1395w-4(f)(2)(C)) is amended—

19                       (A) by striking “projected” and inserting  
20                       “annual average”; and

21                       (B) by striking “from the previous applica-  
22                       ble period to the applicable period involved”  
23                       and inserting “during the 10-year period ending  
24                       with the applicable period involved”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by paragraph (1) shall apply to computations of the  
3           sustainable growth rate for years beginning with  
4           2003.

5 **SEC. 202. 2-YEAR EXTENSION OF HOLD HARMLESS PROVI-**  
6                           **SIONS FOR SMALL RURAL HOSPITALS AND**  
7                           **SOLE COMMUNITY HOSPITALS UNDER THE**  
8                           **PROSPECTIVE PAYMENT SYSTEM FOR HOS-**  
9                           **PITAL OUTPATIENT DEPARTMENT SERVICES.**

10       (a) HOLD HARMLESS PROVISIONS.—

11           (1) IN GENERAL.—Section 1833(t)(7)(D)(i) (42  
12       U.S.C. 1395l(t)(7)(D)(i)) is amended—

13           (A) in the heading, by striking “SMALL”  
14           and inserting “CERTAIN”;

15           (B) by inserting “or a sole community hos-  
16           pital (as defined in section 1886(d)(5)(D)(iii))  
17           located in a rural area” after “100 beds”; and

18           (C) by striking “2004” and inserting  
19           “2006”.

20       (2) EFFECTIVE DATE.—The amendment made  
21       by paragraph (1)(B) shall apply with respect to cost  
22       reporting periods beginning on and after January 1,  
23       2004.

24       (b) STUDY; AUTHORIZATION OF ADJUSTMENT.—Sec-  
25       tion 1833(t) (42 U.S.C. 1395l(t)) is amended—

1           (1) by redesignating paragraph (13) as para-  
2           graph (16); and

3           (2) by inserting after paragraph (12) the fol-  
4           lowing new paragraph:

5           “(13) AUTHORIZATION OF ADJUSTMENT FOR  
6           RURAL HOSPITALS.—

7                   “(A) STUDY.—The Secretary shall conduct  
8                   a study to determine if, under the system under  
9                   this subsection, costs incurred by hospitals lo-  
10                  cated in rural areas by ambulatory payment  
11                  classification groups (APCs) exceed those costs  
12                  incurred by hospitals located in urban areas.

13                   “(B) AUTHORIZATION OF ADJUSTMENT.—  
14                   Insofar as the Secretary determines under sub-  
15                   paragraph (A) that costs incurred by hospitals  
16                   located in rural areas exceed those costs in-  
17                   curred by hospitals located in urban areas, the  
18                   Secretary shall provide for an appropriate ad-  
19                   justment under paragraph (2)(E) to reflect  
20                   those higher costs by January 1, 2006.”.

21 **SEC. 203. ESTABLISHMENT OF FLOOR ON WORK GEO-**  
22 **GRAPHIC ADJUSTMENT.**

23           Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is  
24           amended—

1 (1) in subparagraph (A), by striking “subpara-  
2 graphs (B) and (C)” and inserting “subparagraphs  
3 (B), (C), and (E)”; and

4 (2) by adding at the end the following new sub-  
5 paragraph:

6 “(E) FLOOR AT 1.0 ON WORK GEOGRAPHIC  
7 INDEX.—After calculating the work geographic  
8 index in subparagraph (A)(iii), for purposes of  
9 payment for services furnished on or after Jan-  
10 uary 1, 2004, and before January 1, 2007, the  
11 Secretary shall increase the work geographic  
12 index to 1.00 for any locality for which such  
13 work geographic index is less than 1.00.”.

14 **SEC. 204. MEDICARE INCENTIVE PAYMENT PROGRAM IM-**  
15 **PROVEMENTS FOR PHYSICIAN SCARCITY.**

16 (a) ADDITIONAL INCENTIVE PAYMENT FOR CERTAIN  
17 PHYSICIAN SCARCITY AREAS.—Section 1833 (42 U.S.C.  
18 1395l) is amended by adding at the end the following new  
19 subsection:

20 “(u) INCENTIVE PAYMENTS FOR PHYSICIAN SCAR-  
21 CITY AREAS.—

22 “(1) IN GENERAL.—In the case of physicians’  
23 services furnished on or after January 1, 2005, and  
24 before January 1, 2008—

1           “(A) by a primary care physician in a pri-  
2           mary care scarcity county (identified under  
3           paragraph (4)); or

4           “(B) by a physician who is not a primary  
5           care physician in a specialist care scarcity coun-  
6           ty (as so identified),

7           in addition to the amount of payment that would  
8           otherwise be made for such services under this part,  
9           there also shall be paid an amount equal to 5 per-  
10          cent of the payment amount for the service under  
11          this part.

12          “(2) DETERMINATION OF RATIOS OF PHYSI-  
13          CIANS TO MEDICARE BENEFICIARIES IN AREA.—  
14          Based upon available data, the Secretary shall estab-  
15          lish for each county or equivalent area in the United  
16          States, the following:

17                 “(A) NUMBER OF PHYSICIANS PRACTICING  
18                 IN THE AREA.—The number of physicians who  
19                 furnish physicians’ services in the active prac-  
20                 tice of medicine or osteopathy in that county or  
21                 area, other than physicians whose practice is  
22                 exclusively for the Federal Government, physi-  
23                 cians who are retired, or physicians who only  
24                 provide administrative services. Of such num-  
25                 ber, the number of such physicians who are—

1 “(i) primary care physicians; or

2 “(ii) physicians who are not primary  
3 care physicians.

4 “(B) NUMBER OF MEDICARE BENE-  
5 FICIARIES RESIDING IN THE AREA.—The num-  
6 ber of individuals who are residing in the coun-  
7 ty and are entitled to benefits under part A or  
8 enrolled under this part, or both (in this sub-  
9 section referred to as ‘individuals’).

10 “(C) DETERMINATION OF RATIOS.—

11 “(i) PRIMARY CARE RATIO.—The ratio  
12 (in this paragraph referred to as the ‘pri-  
13 mary care ratio’) of the number of primary  
14 care physicians (determined under sub-  
15 paragraph (A)(i)), to the number of indi-  
16 viduals determined under subparagraph  
17 (B).

18 “(ii) SPECIALIST CARE RATIO.—The  
19 ratio (in this paragraph referred to as the  
20 ‘specialist care ratio’) of the number of  
21 other physicians (determined under sub-  
22 paragraph (A)(ii)), to the number of indi-  
23 viduals determined under subparagraph  
24 (B).

1           “(3) RANKING OF COUNTIES.—The Secretary  
2 shall rank each such county or area based separately  
3 on its primary care ratio and its specialist care ratio.

4           “(4) IDENTIFICATION OF COUNTIES.—

5           “(A) IN GENERAL.—The Secretary shall  
6 identify—

7           “(i) those counties and areas (in this  
8 paragraph referred to as ‘primary care  
9 scarcity counties’) with the lowest primary  
10 care ratios that represent, if each such  
11 county or area were weighted by the num-  
12 ber of individuals determined under para-  
13 graph (2)(B), an aggregate total of 20 per-  
14 cent of the total of the individuals deter-  
15 mined under such paragraph; and

16           “(ii) those counties and areas (in this  
17 subsection referred to as ‘specialist care  
18 scarcity counties’) with the lowest spe-  
19 cialist care ratios that represent, if each  
20 such county or area were weighted by the  
21 number of individuals determined under  
22 paragraph (2)(B), an aggregate total of 20  
23 percent of the total of the individuals de-  
24 termined under such paragraph.

1           “(B) PERIODIC REVISIONS.—The Sec-  
2           retary shall periodically revise the counties or  
3           areas identified in subparagraph (A) (but not  
4           less often than once every three years) unless  
5           the Secretary determines that there is no new  
6           data available on the number of physicians  
7           practicing in the county or area or the number  
8           of individuals residing in the county or area, as  
9           identified in paragraph (2).

10           “(C) IDENTIFICATION OF COUNTIES  
11           WHERE SERVICE IS FURNISHED.—For purposes  
12           of paying the additional amount specified in  
13           paragraph (1), if the Secretary uses the 5-digit  
14           postal ZIP Code where the service is furnished,  
15           the dominant county of the postal ZIP Code (as  
16           determined by the United States Postal Service,  
17           or otherwise) shall be used to determine wheth-  
18           er the postal ZIP Code is in a scarcity county  
19           identified in subparagraph (A) or revised in  
20           subparagraph (B).

21           “(D) JUDICIAL REVIEW.—There shall be  
22           no administrative or judicial review under sec-  
23           tion 1869, 1878, or otherwise, respecting—

24                   “(i) the identification of a county or  
25                   area;

1                   “(ii) the assignment of a specialty of  
2                   any physician under this paragraph;

3                   “(iii) the assignment of a physician to  
4                   a county under paragraph (2); or

5                   “(iv) the assignment of a postal ZIP  
6                   Code to a county or other area under this  
7                   subsection.

8                   “(5) RURAL CENSUS TRACTS.—To the extent  
9                   feasible, the Secretary shall treat a rural census  
10                  tract of a metropolitan statistical area (as deter-  
11                  mined under the most recent modification of the  
12                  Goldsmith Modification, originally published in the  
13                  Federal Register on February 27, 1992 (57 Fed.  
14                  Reg. 6725)), as an equivalent area for purposes of  
15                  qualifying as a primary care scarcity county or spe-  
16                  cialist care scarcity county under this subsection.

17                  “(6) PHYSICIAN DEFINED.—For purposes of  
18                  this paragraph, the term ‘physician’ means a physi-  
19                  cian described in section 1861(r)(1) and the term  
20                  ‘primary care physician’ means a physician who is  
21                  identified in the available data as a general practi-  
22                  tioner, family practice practitioner, general internist,  
23                  or obstetrician or gynecologist.

24                  “(7) PUBLICATION OF LIST OF COUNTIES;  
25                  POSTING ON WEBSITE.—With respect to a year for

1       which a county or area is identified or revised under  
2       paragraph (4), the Secretary shall identify such  
3       counties or areas as part of the proposed and final  
4       rule to implement the physician fee schedule under  
5       section 1848 for the applicable year. The Secretary  
6       shall post the list of counties identified or revised  
7       under paragraph (4) on the Internet website of the  
8       Centers for Medicare & Medicaid Services.”.

9       (b) IMPROVEMENT TO MEDICARE INCENTIVE PAY-  
10      MENT PROGRAM.—

11             (1) IN GENERAL.—Section 1833(m) (42 U.S.C.  
12      1395l(m)) is amended—

13                     (A) by inserting “(1)” after “(m)”;

14                     (B) in paragraph (1), as designated by  
15      subparagraph (A)—

16                             (i) by inserting “in a year” after “In  
17      the case of physicians’ services furnished”;  
18      and

19                             (ii) by inserting “as identified by the  
20      Secretary prior to the beginning of such  
21      year” after “as a health professional short-  
22      age area”; and

23                     (C) by adding at the end the following new  
24      paragraphs:

1       “(2) For each health professional shortage area iden-  
2       tified in paragraph (1) that consists of an entire county,  
3       the Secretary shall provide for the additional payment  
4       under paragraph (1) without any requirement on the phy-  
5       sician to identify the health professional shortage area in-  
6       volved. The Secretary may implement the previous sen-  
7       tence using the method specified in subsection (u)(4)(C).

8       “(3) The Secretary shall post on the Internet website  
9       of the Centers for Medicare & Medicaid Services a list of  
10      the health professional shortage areas identified in para-  
11      graph (1) that consist of a partial county to facilitate the  
12      additional payment under paragraph (1) in such areas.

13      “(4) There shall be no administrative or judicial re-  
14      view under section 1869, section 1878, or otherwise, re-  
15      specting—

16              “(A) the identification of a county or area;

17              “(B) the assignment of a specialty of any physi-  
18      cian under this paragraph;

19              “(C) the assignment of a physician to a county  
20      under this subsection; or

21              “(D) the assignment of a postal zip code to a  
22      county or other area under this subsection.”.

23              (2) EFFECTIVE DATE.—The amendments made  
24      by paragraph (1) shall apply to physicians’ services  
25      furnished on or after January 1, 2005.

1 (c) GAO STUDY OF GEOGRAPHIC DIFFERENCES IN  
2 PAYMENTS FOR PHYSICIANS' SERVICES.—

3 (1) STUDY.—The Comptroller General of the  
4 United States shall conduct a study of differences in  
5 payment amounts under the physician fee schedule  
6 under section 1848 of the Social Security Act (42  
7 U.S.C. 1395w-4) for physicians' services in different  
8 geographic areas. Such study shall include—

9 (A) an assessment of the validity of the ge-  
10 ographic adjustment factors used for each com-  
11 ponent of the fee schedule;

12 (B) an evaluation of the measures used for  
13 such adjustment, including the frequency of re-  
14 visions;

15 (C) an evaluation of the methods used to  
16 determine professional liability insurance costs  
17 used in computing the malpractice component,  
18 including a review of increases in professional  
19 liability insurance premiums and variation in  
20 such increases by State and physician specialty  
21 and methods used to update the geographic cost  
22 of practice index and relative weights for the  
23 malpractice component; and

24 (D) an evaluation of the effect of the ad-  
25 justment to the physician work geographic

1 index under section 1848(e)(1)(E) of the Social  
2 Security Act, as added by section 203, on phy-  
3 sician location and retention in areas affected  
4 by such adjustment, taking into account—

5 (i) differences in recruitment costs  
6 and retention rates for physicians, includ-  
7 ing specialists, between large urban areas  
8 and other areas; and

9 (ii) the mobility of physicians, includ-  
10 ing specialists, over the last decade.

11 (2) REPORT.—Not later than 1 year after the  
12 date of the enactment of this Act, the Comptroller  
13 General shall submit to Congress a report on the  
14 study conducted under paragraph (1). The report  
15 shall include recommendations regarding the use of  
16 more current data in computing geographic cost of  
17 practice indices as well as the use of data directly  
18 representative of physicians' costs (rather than  
19 proxy measures of such costs).

20 **SEC. 205. PAYMENT FOR RURAL AND URBAN AMBULANCE**  
21 **SERVICES.**

22 (a) PHASE-IN PROVIDING FLOOR USING BLEND OF  
23 FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Sec-  
24 tion 1834(l) (42 U.S.C. 1395m(l)) is amended—

1           (1) in paragraph (2)(E), by inserting “con-  
2           sistent with paragraph (11)” after “in an efficient  
3           and fair manner”; and

4           (2) by redesignating paragraph (8), as added by  
5           section 221(a) of BIPA (114 Stat. 2763A–486), as  
6           paragraph (9); and

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

9           “(10) PHASE-IN PROVIDING FLOOR USING  
10          BLEND OF FEE SCHEDULE AND REGIONAL FEE  
11          SCHEDULES.—In carrying out the phase-in under  
12          paragraph (2)(E) for each level of ground service  
13          furnished in a year, the portion of the payment  
14          amount that is based on the fee schedule shall be the  
15          greater of the amount determined under such fee  
16          schedule (without regard to this paragraph) or the  
17          following blended rate of the fee schedule under  
18          paragraph (1) and of a regional fee schedule for the  
19          region involved:

20                 “(A) For 2004 (for services furnished on  
21                 or after July 1, 2004), the blended rate shall be  
22                 based 20 percent on the fee schedule under  
23                 paragraph (1) and 80 percent on the regional  
24                 fee schedule.

1           “(B) For 2005, the blended rate shall be  
2           based 40 percent on the fee schedule under  
3           paragraph (1) and 60 percent on the regional  
4           fee schedule.

5           “(C) For 2006, the blended rate shall be  
6           based 60 percent on the fee schedule under  
7           paragraph (1) and 40 percent on the regional  
8           fee schedule.

9           “(D) For 2007, 2008, and 2009, the  
10          blended rate shall be based 80 percent on the  
11          fee schedule under paragraph (1) and 20 per-  
12          cent on the regional fee schedule.

13          “(E) For 2010 and each succeeding year,  
14          the blended rate shall be based 100 percent on  
15          the fee schedule under paragraph (1).

16          For purposes of this paragraph, the Secretary shall  
17          establish a regional fee schedule for each of the nine  
18          census divisions (referred to in section 1886(d)(2))  
19          using the methodology (used in establishing the fee  
20          schedule under paragraph (1)) to calculate a re-  
21          gional conversion factor and a regional mileage pay-  
22          ment rate and using the same payment adjustments  
23          and the same relative value units as used in the fee  
24          schedule under such paragraph.”.

1 (b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG  
2 TRIPS.—Section 1834(l), as amended by subsection (a),  
3 is amended by adding at the end the following new para-  
4 graph:

5 “(11) ADJUSTMENT IN PAYMENT FOR CERTAIN  
6 LONG TRIPS.—In the case of ground ambulance  
7 services furnished on or after July 1, 2004, and be-  
8 fore January 1, 2009, regardless of where the trans-  
9 portation originates, the fee schedule established  
10 under this subsection shall provide that, with respect  
11 to the payment rate for mileage for a trip above 50  
12 miles the per mile rate otherwise established shall be  
13 increased by  $\frac{1}{4}$  of the payment per mile otherwise  
14 applicable to miles in excess of 50 miles in such  
15 trip.”.

16 (c) IMPROVEMENT IN PAYMENTS TO RETAIN EMER-  
17 GENCY CAPACITY FOR AMBULANCE SERVICES IN RURAL  
18 AREAS.—

19 (1) IN GENERAL.—Section 1834(l) (42 U.S.C.  
20 1395m(l)), as amended by subsections (a) and (b),  
21 is amended by adding at the end the following new  
22 paragraph:

23 “(12) ASSISTANCE FOR RURAL PROVIDERS  
24 FURNISHING SERVICES IN LOW POPULATION DEN-  
25 SITY AREAS.—

1           “(A) IN GENERAL.—In the case of ground  
2 ambulance services furnished on or after July  
3 1, 2004, and before January 1, 2010, for which  
4 the transportation originates in a qualified  
5 rural area (identified under subparagraph  
6 (B)(iii)), the Secretary shall provide for a per-  
7 cent increase in the base rate of the fee sched-  
8 ule for a trip established under this subsection.  
9 In establishing such percent increase, the Sec-  
10 retary shall estimate the average cost per trip  
11 for such services (not taking into account mile-  
12 age) in the lowest quartile as compared to the  
13 average cost per trip for such services (not tak-  
14 ing into account mileage) in the highest quartile  
15 of all rural county populations.

16           “(B) IDENTIFICATION OF QUALIFIED  
17 RURAL AREAS.—

18           “(i) DETERMINATION OF POPULATION  
19 DENSITY IN AREA.—Based upon data from  
20 the United States decennial census for the  
21 year 2000, the Secretary shall determine,  
22 for each rural area, the population density  
23 for that area.

1           “(ii) RANKING OF AREAS.—The Sec-  
2           retary shall rank each such area based on  
3           such population density.

4           “(iii) IDENTIFICATION OF QUALIFIED  
5           RURAL AREAS.—The Secretary shall iden-  
6           tify those areas (in subparagraph (A) re-  
7           ferred to as ‘qualified rural areas’) with  
8           the lowest population densities that rep-  
9           resent, if each such area were weighted by  
10          the population of such area (as used in  
11          computing such population densities), an  
12          aggregate total of 25 percent of the total  
13          of the population of all such areas.

14          “(iv) RURAL AREA.—For purposes of  
15          this paragraph, the term ‘rural area’ has  
16          the meaning given such term in section  
17          1886(d)(2)(D). If feasible, the Secretary  
18          shall treat a rural census tract of a metro-  
19          politan statistical area (as determined  
20          under the most recent modification of the  
21          Goldsmith Modification, originally pub-  
22          lished in the Federal Register on February  
23          27, 1992 (57 Fed. Reg. 6725) as a rural  
24          area for purposes of this paragraph.

1                   “(v) JUDICIAL REVIEW.—There shall  
2                   be no administrative or judicial review  
3                   under section 1869, 1878, or otherwise, re-  
4                   specting the identification of an area under  
5                   this subparagraph.”.

6                   (2) USE OF DATA.—In order to promptly imple-  
7                   ment section 1834(l)(12) of the Social Security Act,  
8                   as added by paragraph (1), the Secretary may use  
9                   data furnished by the Comptroller General of the  
10                  United States.

11                  (d) TEMPORARY INCREASE FOR GROUND AMBU-  
12                  LANCE SERVICES.—Section 1834(l) (42 U.S.C.  
13                  1395m(l)), as amended by subsections (a), (b), and (c),  
14                  is amended by adding at the end the following new para-  
15                  graph:

16                         “(13) TEMPORARY INCREASE FOR GROUND AM-  
17                         BULANCE SERVICES.—

18                                 “(A) IN GENERAL.—After computing the  
19                                 rates with respect to ground ambulance services  
20                                 under the other applicable provisions of this  
21                                 subsection, in the case of such services fur-  
22                                 nished on or after July 1, 2004, and before  
23                                 January 1, 2007, for which the transportation  
24                                 originates in—

1           “(i) a rural area described in para-  
2           graph (9) or in a rural census tract de-  
3           scribed in such paragraph, the fee schedule  
4           established under this section shall provide  
5           that the rate for the service otherwise es-  
6           tablished, after the application of any in-  
7           crease under paragraphs (11) and (12),  
8           shall be increased by 2 percent; and

9           “(ii) an area not described in clause  
10          (i), the fee schedule established under this  
11          subsection shall provide that the rate for  
12          the service otherwise established, after the  
13          application of any increase under para-  
14          graph (11), shall be increased by 1 per-  
15          cent.

16          “(B) APPLICATION OF INCREASED PAY-  
17          MENTS AFTER 2006.—The increased payments  
18          under subparagraph (A) shall not be taken into  
19          account in calculating payments for services  
20          furnished after the period specified in such sub-  
21          paragraph.”.

22          (e) IMPLEMENTATION.—The Secretary may imple-  
23          ment the amendments made by this section, and revise  
24          the conversion factor applicable under section 1834(l) of  
25          the Social Security Act (42 U.S.C. 1395m(l)) for purposes

1 of implementing such amendments, on an interim final  
2 basis, or by program instruction.

3 (f) GAO REPORT ON COSTS AND ACCESS.—Not later  
4 than December 31, 2005, the Comptroller General of the  
5 United States shall submit to Congress an initial report  
6 on how costs differ among the types of ambulance pro-  
7 viders and on access, supply, and quality of ambulance  
8 services in those regions and States that have a reduction  
9 in payment under the medicare ambulance fee schedule  
10 (under section 1834(l) of the Social Security Act, as  
11 amended by this Act). Not later than December 31, 2007,  
12 the Comptroller General shall submit to Congress a final  
13 report on such access and supply.

14 (g) TECHNICAL AMENDMENTS.—(1) Section 221(c)  
15 of BIPA (114 Stat. 2763A–487) is amended by striking  
16 “subsection (b)(2)” and inserting “subsection (b)(3)”.

17 (2) Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is  
18 amended by moving subparagraph (U) 4 ems to the left.

19 **SEC. 206. PROVIDING APPROPRIATE COVERAGE OF RURAL**  
20 **AIR AMBULANCE SERVICES.**

21 (a) COVERAGE.—Section 1834(l) (42 U.S.C.  
22 1395m(l)), as amended by subsections (a), (b), (c), and  
23 (d) of section 205, is amended by adding at the end the  
24 following new paragraph:

1           “(14) PROVIDING APPROPRIATE COVERAGE OF  
2 RURAL AIR AMBULANCE SERVICES.—

3           “(A) IN GENERAL.—The regulations de-  
4 scribed in section 1861(s)(7) shall provide, to  
5 the extent that any ambulance services (wheth-  
6 er ground or air) may be covered under such  
7 section, that a rural air ambulance service (as  
8 defined in subparagraph (C)) is reimbursed  
9 under this subsection at the air ambulance rate  
10 if the air ambulance service—

11           “(i) is reasonable and necessary based  
12 on the health condition of the individual  
13 being transported at or immediately prior  
14 to the time of the transport; and

15           “(ii) complies with equipment and  
16 crew requirements established by the Sec-  
17 retary.

18           “(B) SATISFACTION OF REQUIREMENT OF  
19 MEDICALLY NECESSARY.—The requirement of  
20 subparagraph (A)(i) is deemed to be met for a  
21 rural air ambulance service if—

22           “(i) subject to subparagraph (D),  
23 such service is requested by a physician or  
24 other qualified medical personnel (as speci-  
25 fied by the Secretary) who reasonably de-

1           termines or certifies that the individual's  
2           condition is such that the time needed to  
3           transport the individual by land or the in-  
4           stability of transportation by land poses a  
5           threat to the individual's survival or seri-  
6           ously endangers the individual's health; or

7           “(ii) such service is furnished pursu-  
8           ant to a protocol that is established by a  
9           State or regional emergency medical serv-  
10          ice (EMS) agency and recognized or ap-  
11          proved by the Secretary under which the  
12          use of an air ambulance is recommended,  
13          if such agency does not have an ownership  
14          interest in the entity furnishing such serv-  
15          ice.

16          “(C) RURAL AIR AMBULANCE SERVICE DE-  
17          FINED.—For purposes of this paragraph, the  
18          term ‘rural air ambulance service’ means fixed  
19          wing and rotary wing air ambulance service in  
20          which the point of pick up of the individual oc-  
21          curs in a rural area (as defined in section  
22          1886(d)(2)(D)) or in a rural census tract of a  
23          metropolitan statistical area (as determined  
24          under the most recent modification of the Gold-  
25          smith Modification, originally published in the

1 Federal Register on February 27, 1992 (57  
2 Fed. Reg. 6725)).

3 “(D) LIMITATION.—

4 “(i) IN GENERAL.—Subparagraph  
5 (B)(i) shall not apply if there is a financial  
6 or employment relationship between the  
7 person requesting the rural air ambulance  
8 service and the entity furnishing the ambu-  
9 lance service, or an entity under common  
10 ownership with the entity furnishing the  
11 air ambulance service, or a financial rela-  
12 tionship between an immediate family  
13 member of such requester and such an en-  
14 tity.

15 “(ii) EXCEPTION.—Where a hospital  
16 and the entity furnishing rural air ambu-  
17 lance services are under common owner-  
18 ship, clause (i) shall not apply to remu-  
19 neration (through employment or other re-  
20 lationship) by the hospital of the requester  
21 or immediate family member if the remu-  
22 neration is for provider-based physician  
23 services furnished in a hospital (as de-  
24 scribed in section 1887) which are reim-  
25 bursed under part A and the amount of

1           the remuneration is unrelated directly or  
2           indirectly to the provision of rural air am-  
3           bulance services.”.

4           (b) CONFORMING AMENDMENT.—Section 1861(s)(7)  
5 (42 U.S.C. 1395x(s)(7)) is amended by inserting “, sub-  
6 ject to section 1834(l)(14),” after “but”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8 this subsection shall apply to services furnished on or after  
9 January 1, 2005.

10 **SEC. 207. TREATMENT OF CERTAIN CLINICAL DIAGNOSTIC**  
11                           **LABORATORY TESTS FURNISHED TO HOS-**  
12                           **PITAL OUTPATIENTS IN CERTAIN RURAL**  
13                           **AREAS.**

14           (a) IN GENERAL.—Notwithstanding subsections (a),  
15 (b), and (h) of section 1833 of the Social Security Act  
16 (42 U.S.C. 1395l) and section 1834(d)(1) of such Act (42  
17 U.S.C. 1395m(d)(1)), in the case of a clinical diagnostic  
18 laboratory test covered under part B of title XVIII of such  
19 Act that is furnished during a cost reporting period de-  
20 scribed in subsection (b) by a hospital with fewer than  
21 50 beds that is located in a qualified rural area (identified  
22 under paragraph (12)(B)(iii) of section 1834(l) of the So-  
23 cial Security Act (42 U.S.C. 1395m(l)), as added by sec-  
24 tion 205(c)) as part of outpatient services of the hospital,  
25 the amount of payment for such test shall be 100 percent

1 of the reasonable costs of the hospital in furnishing such  
2 test.

3 (b) APPLICATION.—A cost reporting period described  
4 in this subsection is a cost reporting period beginning dur-  
5 ing the 2-year period beginning on July 1, 2004.

6 (c) PROVISION AS PART OF OUTPATIENT HOSPITAL  
7 SERVICES.—For purposes of subsection (a), in deter-  
8 mining whether clinical diagnostic laboratory services are  
9 furnished as part of outpatient services of a hospital, the  
10 Secretary shall apply the same rules that are used to de-  
11 termine whether clinical diagnostic laboratory services are  
12 furnished as an outpatient critical access hospital service  
13 under section 1834(g)(4) of the Social Security Act (42  
14 U.S.C. 1395m(g)(4)).

15 **SEC. 208. EXTENSION OF TELEMEDICINE DEMONSTRATION**  
16 **PROJECT.**

17 Section 4207 of the Balanced Budget Act of 1997  
18 (Public Law 105–33) is amended—

19 (1) in subsection (a)(4), by striking “4-year”  
20 and inserting “8-year”; and

21 (2) in subsection (d)(3), by striking  
22 “\$30,000,000” and inserting “\$60,000,000”.

1 **SEC. 209. REPORT ON DEMONSTRATION PROJECT PERMIT-**  
2 **TING SKILLED NURSING FACILITIES TO BE**  
3 **ORIGINATING TELEHEALTH SITES; AUTHOR-**  
4 **ITY TO IMPLEMENT.**

5 (a) EVALUATION.—The Secretary, acting through the  
6 Administrator of the Health Resources and Services Ad-  
7 ministration in consultation with the Administrator of the  
8 Centers for Medicare & Medicaid Services, shall evaluate  
9 demonstration projects conducted by the Secretary under  
10 which skilled nursing facilities (as defined in section  
11 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a))  
12 are treated as originating sites for telehealth services.

13 (b) REPORT.—Not later than January 1, 2005, the  
14 Secretary shall submit to Congress a report on the evalua-  
15 tion conducted under subsection (a). Such report shall in-  
16 clude recommendations on mechanisms to ensure that per-  
17 mitting a skilled nursing facility to serve as an originating  
18 site for the use of telehealth services or any other service  
19 delivered via a telecommunications system does not serve  
20 as a substitute for in-person visits furnished by a physi-  
21 cian, or for in-person visits furnished by a physician as-  
22 sistant, nurse practitioner or clinical nurse specialist, as  
23 is otherwise required by the Secretary.

24 (c) AUTHORITY TO EXPAND ORIGINATING TELE-  
25 HEALTH SITES TO INCLUDE SKILLED NURSING FACILI-  
26 TIES.—Insofar as the Secretary concludes in the report

1 required under subsection (b) that it is advisable to permit  
2 a skilled nursing facility to be an originating sites for tele-  
3 health services under section 1834(m) of the Social Secu-  
4 rity Act (42 U.S.C. 1395m(m)), and that the Secretary  
5 can establish the mechanisms to ensure such permission  
6 does not serve as a substitute for in-person visits furnished  
7 by a physician, or for in-person visits furnished by a physi-  
8 cian assistant, nurse practitioner or clinical nurse spe-  
9 cialist, the Secretary may deem a skilled nursing facility  
10 to be an originating site under paragraph (4)(C)(ii) of  
11 such section beginning on January 1, 2006.

12 **SEC. 210. 5-YEAR AUTHORIZATION OF REIMBURSEMENT**  
13 **FOR ALL MEDICARE PART B SERVICES FUR-**  
14 **NISHED BY CERTAIN INDIAN HOSPITALS AND**  
15 **CLINICS.**

16 Section 1880(e)(1)(A) (42 U.S.C. 1395qq(e)(1)(A))  
17 is amended by inserting “(and for items and services fur-  
18 nished during the 5-year period beginning on January 1,  
19 2005, all items and services for which payment may be  
20 made under part B)” after “for services described in para-  
21 graph (2)”.

22 **SEC. 211. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS’**  
23 **SERVICES.**

24 (a) PRACTICE EXPENSE COMPONENT.—Not later  
25 than 1 year after the date of the enactment of this Act,

1 the Medicare Payment Advisory Commission shall submit  
2 to Congress a report on the effect of refinements to the  
3 practice expense component of payments for physicians'  
4 services, after the transition to a full resource-based pay-  
5 ment system in 2002, under section 1848 of the Social  
6 Security Act (42 U.S.C. 1395w-4). Such report shall ex-  
7 amine the following matters by physician specialty:

8           (1) The effect of such refinements on payment  
9           for physicians' services.

10           (2) The interaction of the practice expense com-  
11           ponent with other components of and adjustments to  
12           payment for physicians' services under such section.

13           (3) The appropriateness of the amount of com-  
14           pensation by reason of such refinements.

15           (4) The effect of such refinements on access to  
16           care by medicare beneficiaries to physicians' serv-  
17           ices.

18           (5) The effect of such refinements on physician  
19           participation under the medicare program.

20           (b) VOLUME OF PHYSICIANS' SERVICES.—Not later  
21 than 1 year after the date of the enactment of this Act,  
22 the Medicare Payment Advisory Commission shall submit  
23 to Congress a report on the extent to which increases in  
24 the volume of physicians' services under part B of the  
25 medicare program are a result of care that improves the

1 health and well-being of medicare beneficiaries. The study  
2 shall include the following:

3 (1) An analysis of recent and historic growth in  
4 the components that the Secretary includes under  
5 the sustainable growth rate (under section 1848(f)  
6 of the Social Security Act (42 U.S.C. 1395w-4(f))).

7 (2) An examination of the relative growth of  
8 volume in physicians' services between medicare  
9 beneficiaries and other populations.

10 (3) An analysis of the degree to which new  
11 technology, including coverage determinations of the  
12 Centers for Medicare & Medicaid Services, has af-  
13 fected the volume of physicians' services.

14 (4) An examination of the impact on volume of  
15 demographic changes.

16 (5) An examination of shifts in the site of serv-  
17 ice or services that influence the number and inten-  
18 sity of services furnished in physicians' offices and  
19 the extent to which changes in reimbursement rates  
20 to other providers have effected these changes.

21 (6) An evaluation of the extent to which the  
22 Centers for Medicare & Medicaid Services takes into  
23 account the impact of law and regulations on the  
24 sustainable growth rate.

1 **SEC. 212. PAYMENT FOR RENAL DIALYSIS SERVICES.**

2 (a) INCREASE IN RENAL DIALYSIS COMPOSITE RATE  
3 FOR SERVICES FURNISHED.—The last sentence of section  
4 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended—

5 (1) by striking “and” before “for such services”  
6 the second place it appears;

7 (2) by inserting “and before January 1, 2005,”  
8 after “January 1, 2001,”; and

9 (3) by inserting before the period at the end the  
10 following: “, and for such services furnished on or  
11 after January 1, 2005, by 1.6 percent above such  
12 composite rate payment amounts for such services  
13 furnished on December 31, 2004”.

14 (b) RESTORING COMPOSITE RATE EXCEPTIONS FOR  
15 PEDIATRIC FACILITIES.—

16 (1) IN GENERAL.—Section 422(a)(2) of BIPA  
17 is amended—

18 (A) in subparagraph (A), by striking “and  
19 (C)” and inserting “, (C), and (D)”;

20 (B) in subparagraph (B), by striking “In  
21 the case” and inserting “Subject to subpara-  
22 graph (D), in the case”; and

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

25 “(D) INAPPLICABILITY TO PEDIATRIC FA-  
26 CILITIES.—Subparagraphs (A) and (B) shall

1 not apply, as of October 1, 2002, to pediatric  
2 facilities that do not have an exception rate de-  
3 scribed in subparagraph (C) in effect on such  
4 date. For purposes of this subparagraph, the  
5 term ‘pediatric facility’ means a renal facility  
6 at least 50 percent of whose patients are indi-  
7 viduals under 18 years of age.”.

8 (2) CONFORMING AMENDMENT.—The fourth  
9 sentence of section 1881(b)(7) (42 U.S.C.  
10 1395rr(b)(7)) is amended by striking “The Sec-  
11 retary” and inserting “Subject to section 422(a)(2)  
12 of the Medicare, Medicaid, and SCHIP Benefits Im-  
13 provement and Protection Act of 2000, the Sec-  
14 retary”.

15 (c) INSPECTOR GENERAL STUDIES ON ESRD  
16 DRUGS.—

17 (1) IN GENERAL.—The Inspector General of  
18 the Department of Health and Human Services shall  
19 conduct two studies with respect to drugs and  
20 biologicals (including erythropoietin) furnished to  
21 end-stage renal disease patients under the medicare  
22 program which are separately billed by end stage  
23 renal disease facilities.

24 (2) STUDIES ON ESRD DRUGS.—

1           (A) EXISTING DRUGS.—The first study  
2           under paragraph (1) shall be conducted with re-  
3           spect to such drugs and biologicals for which a  
4           billing code exists prior to January 1, 2004.

5           (B) NEW DRUGS.—The second study  
6           under paragraph (1) shall be conducted with re-  
7           spect to such drugs and biologicals for which a  
8           billing code does not exist prior to January 1,  
9           2004.

10          (3) MATTERS STUDIED.—Under each study  
11          conducted under paragraph (1), the Inspector Gen-  
12          eral shall—

13                 (A) determine the difference between the  
14                 amount of payment made to end stage renal  
15                 disease facilities under title XVIII of the Social  
16                 Security Act for such drugs and biologicals and  
17                 the acquisition costs of such facilities for such  
18                 drugs and biologicals and which are separately  
19                 billed by end stage renal disease facilities, and

20                 (B) estimate the rates of growth of ex-  
21                 penditures for such drugs and biologicals billed  
22                 by such facilities.

23          (4) REPORTS.—

24                 (A) EXISTING ESRD DRUGS.—Not later  
25                 than April 1, 2004, the Inspector General shall

1 report to the Secretary on the study described  
2 in paragraph (2)(A).

3 (B) NEW ESRD DRUGS.—Not later than  
4 April 1, 2006, the Inspector General shall re-  
5 port to the Secretary on the study described in  
6 paragraph (2)(B).

7 (d) BASIC CASE-MIX ADJUSTED COMPOSITE RATE  
8 FOR RENAL DIALYSIS FACILITY SERVICES.—(1) Section  
9 1881(b) (42 U.S.C. 1395rr(b)) is amended by adding at  
10 the end the following new paragraphs:

11 “(12)(A) In lieu of payment under paragraph (7) be-  
12 ginning with services furnished on January 1, 2005, the  
13 Secretary shall establish a basic case-mix adjusted pro-  
14 spective payment system for dialysis services furnished by  
15 providers of services and renal dialysis facilities in a year  
16 to individuals in a facility and to such individuals at home.  
17 The case-mix under such system shall be for a limited  
18 number of patient characteristics.

19 “(B) The system described in subparagraph (A) shall  
20 include—

21 “(i) the services comprising the composite rate  
22 established under paragraph (7); and

23 “(ii) the difference between payment amounts  
24 under this title for separately billed drugs and  
25 biologicals (including erythropoietin) and acquisition

1 costs of such drugs and biologicals, as determined by  
2 the Inspector General reports to the Secretary as re-  
3 quired by section 623(c) of the Medicare Prescrip-  
4 tion Drug, Improvement, and Modernization Act of  
5 2003—

6 “(I) beginning with 2005, for such drugs  
7 and biologicals for which a billing code exists  
8 prior to January 1, 2004; and

9 “(II) beginning with 2007, for such drugs  
10 and biologicals for which a billing code does not  
11 exist prior to January 1, 2004,

12 adjusted to 2005, or 2007, respectively, as deter-  
13 mined to be appropriate by the Secretary.

14 “(C)(i) In applying subparagraph (B)(ii) for 2005,  
15 such payment amounts under this title shall be determined  
16 using the methodology specified in paragraph (13)(A)(i).

17 “(ii) For 2006, the Secretary shall provide for an ad-  
18 justment to the payments under clause (i) to reflect the  
19 difference between the payment amounts using the meth-  
20 odology under paragraph (13)(A)(i) and the payment  
21 amount determined using the methodology applied by the  
22 Secretary under paragraph (13)(A)(iii) of such paragraph,  
23 as estimated by the Secretary.

24 “(D) The Secretary shall adjust the payment rates  
25 under such system by a geographic index as the Secretary

1 determines to be appropriate. If the Secretary applies a  
2 geographic index under this paragraph that differs from  
3 the index applied under paragraph (7) the Secretary shall  
4 phase-in the application of the index under this paragraph  
5 over a multiyear period.

6       “(E)(i) Such system shall be designed to result in the  
7 same aggregate amount of expenditures for such services,  
8 as estimated by the Secretary, as would have been made  
9 for 2005 if this paragraph did not apply.

10       “(ii) The adjustment made under subparagraph  
11 (B)(ii)(II) shall be done in a manner to result in the same  
12 aggregate amount of expenditures after such adjustment  
13 as would otherwise have been made for such services for  
14 2006 or 2007, respectively, as estimated by the Secretary,  
15 if this paragraph did not apply.

16       “(F) Beginning with 2006, the Secretary shall annu-  
17 ally increase the basic case-mix adjusted payment amounts  
18 established under this paragraph, by an amount deter-  
19 mined by—

20               “(i) applying the estimated growth in expendi-  
21 tures for drugs and biologicals (including erythro-  
22 poietin) that are separately billable to the component  
23 of the basic case-mix adjusted system described in  
24 subparagraph (B)(ii); and

1           “(ii) converting the amount determined in  
2           clause (i) to an increase applicable to the basic case-  
3           mix adjusted payment amounts established under  
4           subparagraph (B).

5 Nothing in this paragraph shall be construed as providing  
6 for an update to the composite rate component of the basic  
7 case-mix adjusted system under subparagraph (B).

8           “(G) There shall be no administrative or judicial re-  
9           view under section 1869, section 1878, or otherwise, of  
10          the case-mix system, relative weights, payment amounts,  
11          the geographic adjustment factor, or the update for the  
12          system established under this paragraph, or the deter-  
13          mination of the difference between medicare payment  
14          amounts and acquisition costs for separately billed drugs  
15          and biologicals (including erythropoietin) under this para-  
16          graph and paragraph (13).

17          “(13)(A) The payment amounts under this title for  
18          separately billed drugs and biologicals furnished in a year,  
19          beginning with 2004, are as follows:

20                 “(i) For such drugs and biologicals (other than  
21                 erythropoietin) furnished in 2004, the amount deter-  
22                 mined under section 1842(o)(1)(A)(v) for the drug  
23                 or biological.

24                 “(ii) For such drugs and biologicals (including  
25                 erythropoietin) furnished in 2005, the acquisition

1 cost of the drug or biological, as determined by the  
2 Inspector General reports to the Secretary as re-  
3 quired by section 623(c) of the Medicare Prescrip-  
4 tion Drug, Improvement, and Modernization Act of  
5 2003. Insofar as the Inspector General has not de-  
6 termined the acquisition cost with respect to a drug  
7 or biological, the Secretary shall determine the pay-  
8 ment amount for such drug or biological.

9 “(iii) For such drugs and biologicals (including  
10 erythropoietin) furnished in 2006 and subsequent  
11 years, such acquisition cost or the amount deter-  
12 mined under section 1847A for the drug or biologi-  
13 cal, as the Secretary may specify.

14 “(B)(i) Drugs and biologicals (including erythro-  
15 poietin) which were separately billed under this subsection  
16 on the day before the date of the enactment of the Medi-  
17 care Prescription Drug, Improvement, and Modernization  
18 Act of 2003 shall continue to be separately billed on and  
19 after such date.

20 “(ii) Nothing in this paragraph, section 1842(o), sec-  
21 tion 1847A, or section 1847B shall be construed as requir-  
22 ing or authorizing the bundling of payment for drugs and  
23 biologicals into the basic case-mix adjusted payment sys-  
24 tem under this paragraph.”.

1           (2) Paragraph (7) of such section is amended in the  
2 first sentence by striking “The Secretary” and inserting  
3 “Subject to paragraph (12), the Secretary”.

4           (3) Paragraph (11)(B) of such section is amended by  
5 inserting “subject to paragraphs (12) and (13)” before  
6 “payment for such item”.

7           (e) DEMONSTRATION OF BUNDLED CASE-MIX AD-  
8 JUSTED PAYMENT SYSTEM FOR ESRD SERVICES.—

9                   (1) IN GENERAL.—The Secretary shall establish  
10 a demonstration project of the use of a fully case-  
11 mix adjusted payment system for end stage renal  
12 disease services under section 1881 of the Social Se-  
13 curity Act (42 U.S.C. 1395rr) for patient character-  
14 istics identified in the report under subsection (f)  
15 that bundles into such payment rates amounts for—

16                           (A) drugs and biologicals (including eryth-  
17 ropoietin) furnished to end stage renal disease  
18 patients under the medicare program which are  
19 separately billed by end stage renal disease fa-  
20 cilities (as of the date of the enactment of this  
21 Act); and

22                           (B) clinical laboratory tests related to such  
23 drugs and biologicals.

24           (2) FACILITIES INCLUDED IN THE DEMONSTRA-  
25 TION.—In conducting the demonstration under this

1 subsection, the Secretary shall ensure the participa-  
2 tion of a sufficient number of providers of dialysis  
3 services and renal dialysis facilities, but in no case  
4 to exceed 500. In selecting such providers and facili-  
5 ties, the Secretary shall ensure that the following  
6 types of providers are included in the demonstration:

7 (A) Urban providers and facilities.

8 (B) Rural providers and facilities.

9 (C) Not-for-profit providers and facilities.

10 (D) For-profit providers and facilities.

11 (E) Independent providers and facilities.

12 (F) Specialty providers and facilities, in-  
13 cluding pediatric providers and facilities and  
14 small providers and facilities.

15 (3) TEMPORARY ADD-ON PAYMENT FOR DIALY-  
16 SIS SERVICES FURNISHED UNDER THE DEMONSTRA-  
17 TION.—

18 (A) IN GENERAL.—During the period of  
19 the demonstration project, the Secretary shall  
20 increase payment rates that would otherwise  
21 apply under section 1881(b) of such Act (42  
22 U.S.C. 1395rr(b)) by 1.6 percent for dialysis  
23 services furnished in facilities in the demonstra-  
24 tion site.

1 (B) RULES OF CONSTRUCTION.—Nothing  
2 in this subsection shall be construed as—

3 (i) as an annual update under section  
4 1881(b) of the Social Security Act (42  
5 U.S.C. 1395rr(b));

6 (ii) as increasing the baseline for pay-  
7 ments under such section; or

8 (iii) requiring the budget neutral im-  
9 plementation of the demonstration project  
10 under this subsection.

11 (4) 3-YEAR PERIOD.—The Secretary shall con-  
12 duct the demonstration under this subsection for the  
13 3-year period beginning on January 1, 2006.

14 (5) USE OF ADVISORY BOARD.—

15 (A) IN GENERAL.—In carrying out the  
16 demonstration under this subsection, the Sec-  
17 retary shall establish an advisory board com-  
18 prised of representatives described in subpara-  
19 graph (B) to provide advice and recommenda-  
20 tions with respect to the establishment and op-  
21 eration of such demonstration.

22 (B) REPRESENTATIVES.—Representatives  
23 referred to in subparagraph (A) include rep-  
24 resentatives of the following:

25 (i) Patient organizations.

1 (ii) Individuals with expertise in end  
2 stage renal dialysis services, such as clini-  
3 cians, economists, and researchers.

4 (iii) The Medicare Payment Advisory  
5 Commission, established under section  
6 1805 of the Social Security Act (42 U.S.C.  
7 1395b–6).

8 (iv) The National Institutes of  
9 Health.

10 (v) Network organizations under sec-  
11 tion 1881(c) of the Social Security Act (42  
12 U.S.C. 1395rr(c)).

13 (vi) Medicare contractors to monitor  
14 quality of care.

15 (vii) Providers of services and renal  
16 dialysis facilities furnishing end stage renal  
17 disease services.

18 (C) TERMINATION OF ADVISORY PANEL.—  
19 The advisory panel shall terminate on Decem-  
20 ber 31, 2008.

21 (6) AUTHORIZATION OF APPROPRIATIONS.—  
22 There are authorized to be appropriated, in appro-  
23 priate part from the Federal Hospital Insurance  
24 Trust Fund and the Federal Supplementary Medical  
25 Insurance Trust Fund, \$5,000,000 in fiscal year

1       2006 to conduct the demonstration under this sub-  
2       section.

3       (f) REPORT ON A BUNDLED PROSPECTIVE PAYMENT  
4       SYSTEM FOR END STAGE RENAL DISEASE SERVICES.—

5             (1) REPORT.—

6                 (A) IN GENERAL.—Not later than October  
7                 1, 2005, the Secretary shall submit to Congress  
8                 a report detailing the elements and features for  
9                 the design and implementation of a bundled  
10                prospective payment system for services fur-  
11                nished by end stage renal disease facilities in-  
12                cluding, to the maximum extent feasible, bun-  
13                dling of drugs, clinical laboratory tests, and  
14                other items that are separately billed by such  
15                facilities. The report shall include a description  
16                of the methodology to be used for the establish-  
17                ment of payment rates, including components of  
18                the new system described in paragraph (2).

19                (B) RECOMMENDATIONS.—The Secretary  
20                shall include in such report recommendations  
21                on elements, features, and methodology for a  
22                bundled prospective payment system or other  
23                issues related to such system as the Secretary  
24                determines to be appropriate.

1           (2) ELEMENTS AND FEATURES OF A BUNDLED  
2 PROSPECTIVE PAYMENT SYSTEM.—The report re-  
3 quired under paragraph (1) shall include the fol-  
4 lowing elements and features of a bundled prospec-  
5 tive payment system:

6           (A) BUNDLE OF ITEMS AND SERVICES.—A  
7 description of the bundle of items and services  
8 to be included under the prospective payment  
9 system.

10          (B) CASE MIX.—A description of the case-  
11 mix adjustment to account for the relative re-  
12 source use of different types of patients.

13          (C) WAGE INDEX.—A description of an ad-  
14 justment to account for geographic differences  
15 in wages.

16          (D) RURAL AREAS.—The appropriateness  
17 of establishing a specific payment adjustment to  
18 account for additional costs incurred by rural  
19 facilities.

20          (E) OTHER ADJUSTMENTS.—Such other  
21 adjustments as may be necessary to reflect the  
22 variation in costs incurred by facilities in caring  
23 for patients with end stage renal disease.

1 (F) UPDATE FRAMEWORK.—A method-  
2 ology for appropriate updates under the pro-  
3 spective payment system.

4 (G) ADDITIONAL RECOMMENDATIONS.—  
5 Such other matters as the Secretary determines  
6 to be appropriate.

7 **SEC. 213. 2-YEAR MORATORIUM ON THERAPY CAPS; PROVI-**  
8 **SIONS RELATING TO REPORTS.**

9 (a) ADDITIONAL MORATORIUM ON THERAPY CAPS.—

10 (1) 2004 AND 2005.—Section 1833(g)(4) (42  
11 U.S.C. 1395l(g)(4)) is amended by striking “and  
12 2002” and inserting “2002, 2004, and 2005”.

13 (2) REMAINDER OF 2003.—For the period be-  
14 ginning on the date of the enactment of this Act and  
15 ending of December 31, 2003, the Secretary shall  
16 not apply the provisions of paragraphs (1), (2), and  
17 (3) of section 1833(g) to expenses incurred with re-  
18 spect to services described in such paragraphs dur-  
19 ing such period. Nothing in the preceding sentence  
20 shall be construed as affecting the application of  
21 such paragraphs by the Secretary before the date of  
22 the enactment of this Act.

23 (b) PROMPT SUBMISSION OF OVERDUE REPORTS ON  
24 PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY  
25 SERVICES.—Not later than March 31, 2004, the Secretary

1 shall submit to Congress the reports required under sec-  
2 tion 4541(d)(2) of the Balanced Budget Act of 1997  
3 (Public Law 105–33; 111 Stat. 457) (relating to alter-  
4 natives to a single annual dollar cap on outpatient ther-  
5 apy) and under section 221(d) of the Medicare, Medicaid,  
6 and SCHIP Balanced Budget Refinement Act of 1999  
7 (Appendix F, 113 Stat. 1501A–352), as enacted into law  
8 by section 1000(a)(6) of Public Law 106–113 (relating  
9 to utilization patterns for outpatient therapy).

10 (c) GAO REPORT IDENTIFYING CONDITIONS AND  
11 DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

12 (1) STUDY.—The Comptroller General of the  
13 United States shall identify conditions or diseases  
14 that may justify waiving the application of the ther-  
15 apy caps under section 1833(g) of the Social Secu-  
16 rity Act (42 U.S.C. 1395l(g)) with respect to such  
17 conditions or diseases.

18 (2) REPORT TO CONGRESS.—Not later than Oc-  
19 tober 1, 2004, the Comptroller General shall submit  
20 to Congress a report on the conditions and diseases  
21 identified under paragraph (1), and shall include a  
22 recommendation of criteria, with respect to such  
23 conditions and disease, under which a waiver of the  
24 therapy caps would apply.

1 **SEC. 214. PAYMENT FOR CLINICAL DIAGNOSTIC LABORA-**  
2 **TORY TESTS.**

3 Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C.  
4 1395l(h)(2)(A)(ii)(IV)) is amended by striking “and 1998  
5 through 2002” and inserting “, 1998 through 2002, and  
6 2004 through 2008”.

7 **TITLE III—PROVISIONS**  
8 **RELATING TO PARTS A AND B**

9 **SEC. 301. 1-YEAR INCREASE FOR HOME HEALTH SERVICES**  
10 **FURNISHED IN A RURAL AREA.**

11 (a) **IN GENERAL.**—With respect to episodes and vis-  
12 its ending on or after April 1, 2004, and before April 1,  
13 2005, in the case of home health services furnished in a  
14 rural area (as defined in section 1886(d)(2)(D) of the So-  
15 cial Security Act (42 U.S.C. 1395ww(d)(2)(D))), the Sec-  
16 retary shall increase the payment amount otherwise made  
17 under section 1895 of such Act (42 U.S.C. 1395fff) for  
18 such services by 5 percent.

19 (b) **WAIVING BUDGET NEUTRALITY.**—The Secretary  
20 shall not reduce the standard prospective payment amount  
21 (or amounts) under section 1895 of the Social Security  
22 Act (42 U.S.C. 1395fff) applicable to home health services  
23 furnished during a period to offset the increase in pay-  
24 ments resulting from the application of subsection (a).

1 (c) NO EFFECT ON SUBSEQUENT PERIODS.—The  
 2 payment increase provided under subsection (a) for a pe-  
 3 riod under such subsection—

4 (1) shall not apply to episodes and visits ending  
 5 after such period; and

6 (2) shall not be taken into account in calcu-  
 7 lating the payment amounts applicable for episodes  
 8 and visits occurring after such period.

9 **SEC. 302. REDISTRIBUTION OF UNUSED RESIDENT POSI-**  
 10 **TIONS.**

11 (a) IN GENERAL.—Section 1886(h) (42 U.S.C.  
 12 1395ww(h)(4)) is amended—

13 (1) in paragraph (4)(F)(i), by inserting “sub-  
 14 ject to paragraph (7),” after “October 1, 1997,”;

15 (2) in paragraph (4)(H)(i), by inserting “and  
 16 subject to paragraph (7)” after “subparagraphs (F)  
 17 and (G)”;

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

20 “(7) REDISTRIBUTION OF UNUSED RESIDENT  
 21 POSITIONS.—

22 “(A) REDUCTION IN LIMIT BASED ON UN-  
 23 USED POSITIONS.—

24 “(i) PROGRAMS SUBJECT TO REDUC-  
 25 TION.—

1           “(I) IN GENERAL.—Except as  
2 provided in subclause (II), if a hos-  
3 pital’s reference resident level (speci-  
4 fied in clause (ii)) is less than the oth-  
5 erwise applicable resident limit (as de-  
6 fined in subparagraph (C)(ii)), effec-  
7 tive for portions of cost reporting pe-  
8 riods occurring on or after July 1,  
9 2005, the otherwise applicable resi-  
10 dent limit shall be reduced by 75 per-  
11 cent of the difference between such  
12 otherwise applicable resident limit and  
13 such reference resident level.

14           “(II) EXCEPTION FOR SMALL  
15 RURAL HOSPITALS.—This subpara-  
16 graph shall not apply to a hospital lo-  
17 cated in a rural area (as defined in  
18 subsection (d)(2)(D)(ii)) with fewer  
19 than 250 acute care inpatient beds.

20           “(ii) REFERENCE RESIDENT LEVEL.—

21           “(I) IN GENERAL.—Except as  
22 otherwise provided in subclauses (II)  
23 and (III), the reference resident level  
24 specified in this clause for a hospital  
25 is the resident level for the most re-

1 cent cost reporting period of the hos-  
2 pital ending on or before September  
3 30, 2002, for which a cost report has  
4 been settled (or, if not, submitted  
5 (subject to audit)), as determined by  
6 the Secretary.

7 “(II) USE OF MOST RECENT AC-  
8 COUNTING PERIOD TO RECOGNIZE EX-  
9 PANSION OF EXISTING PROGRAMS.—If  
10 a hospital submits a timely request to  
11 increase its resident level due to an  
12 expansion of an existing residency  
13 training program that is not reflected  
14 on the most recent settled cost report,  
15 after audit and subject to the discre-  
16 tion of the Secretary, the reference  
17 resident level for such hospital is the  
18 resident level for the cost reporting  
19 period that includes July 1, 2003, as  
20 determined by the Secretary.

21 “(III) EXPANSIONS UNDER  
22 NEWLY APPROVED PROGRAMS.—Upon  
23 the timely request of a hospital, the  
24 Secretary shall adjust the reference  
25 resident level specified under sub-

1 clause (I) or (II) to include the num-  
2 ber of medical residents that were ap-  
3 proved in an application for a medical  
4 residency training program that was  
5 approved by an appropriate accred-  
6 iting organization (as determined by  
7 the Secretary) before January 1,  
8 2002, but which was not in operation  
9 during the cost reporting period used  
10 under subclause (I) or (II), as the  
11 case may be, as determined by the  
12 Secretary.

13 “(iii) AFFILIATION.—The provisions  
14 of clause (i) shall be applied to hospitals  
15 which are members of the same affiliated  
16 group (as defined by the Secretary under  
17 paragraph (4)(H)(ii)) as of July 1, 2003.

18 “(B) REDISTRIBUTION.—

19 “(i) IN GENERAL.—The Secretary is  
20 authorized to increase the otherwise appli-  
21 cable resident limit for each qualifying hos-  
22 pital that submits a timely application  
23 under this subparagraph by such number  
24 as the Secretary may approve for portions  
25 of cost reporting periods occurring on or

1 after July 1, 2005. The aggregate number  
2 of increases in the otherwise applicable  
3 resident limits under this subparagraph  
4 may not exceed the Secretary's estimate of  
5 the aggregate reduction in such limits at-  
6 tributable to subparagraph (A).

7 “(ii) CONSIDERATIONS IN REDIS-  
8 TRIBUTION.—In determining for which  
9 hospitals the increase in the otherwise ap-  
10 plicable resident limit is provided under  
11 clause (i), the Secretary shall take into ac-  
12 count the demonstrated likelihood of the  
13 hospital filling the positions within the first  
14 3 cost reporting periods beginning on or  
15 after July 1, 2005, made available under  
16 this subparagraph, as determined by the  
17 Secretary.

18 “(iii) PRIORITY FOR RURAL AND  
19 SMALL URBAN AREAS.—In determining for  
20 which hospitals and residency training pro-  
21 grams an increase in the otherwise applica-  
22 ble resident limit is provided under clause  
23 (i), the Secretary shall distribute the in-  
24 crease to programs of hospitals located in  
25 the following priority order:

1           “(I) First, to hospitals located in  
2           rural areas (as defined in subsection  
3           (d)(2)(D)(ii)).

4           “(II) Second, to hospitals located  
5           in urban areas that are not large  
6           urban areas (as defined for purposes  
7           of subsection (d)).

8           “(III) Third, to other hospitals in  
9           a State if the residency training pro-  
10          gram involved is in a specialty for  
11          which there are not other residency  
12          training programs in the State.

13          Increases of residency limits within the  
14          same priority category under this clause  
15          shall be determined by the Secretary.

16          “(iv) LIMITATION.—In no case shall  
17          more than 25 full-time equivalent addi-  
18          tional residency positions be made available  
19          under this subparagraph with respect to  
20          any hospital.

21          “(v) APPLICATION OF LOCALITY AD-  
22          JUSTED NATIONAL AVERAGE PER RESI-  
23          DENT AMOUNT.—With respect to addi-  
24          tional residency positions in a hospital at-  
25          tributable to the increase provided under

1 this subparagraph, notwithstanding any  
2 other provision of this subsection, the ap-  
3 proved FTE resident amount is deemed to  
4 be equal to the locality adjusted national  
5 average per resident amount computed  
6 under paragraph (4)(E) for that hospital.

7 “(vi) CONSTRUCTION.—Nothing in  
8 this subparagraph shall be construed as  
9 permitting the redistribution of reductions  
10 in residency positions attributable to vol-  
11 untary reduction programs under para-  
12 graph (6), under a demonstration project  
13 approved as of October 31, 2003, under  
14 the authority of section 402 of Public Law  
15 90–248, or as affecting the ability of a  
16 hospital to establish new medical residency  
17 training programs under paragraph  
18 (4)(H).

19 “(C) RESIDENT LEVEL AND LIMIT DE-  
20 FINED.—In this paragraph:

21 “(i) RESIDENT LEVEL.—The term  
22 ‘resident level’ means, with respect to a  
23 hospital, the total number of full-time  
24 equivalent residents, before the application  
25 of weighting factors (as determined under

1 paragraph (4)), in the fields of allopathic  
2 and osteopathic medicine for the hospital.

3 “(ii) OTHERWISE APPLICABLE RESI-  
4 DENT LIMIT.—The term ‘otherwise appli-  
5 cable resident limit’ means, with respect to  
6 a hospital, the limit otherwise applicable  
7 under subparagraphs (F)(i) and (H) of  
8 paragraph (4) on the resident level for the  
9 hospital determined without regard to this  
10 paragraph.

11 “(D) JUDICIAL REVIEW.—There shall be  
12 no administrative or judicial review under sec-  
13 tion 1869, 1878, or otherwise, with respect to  
14 determinations made under this paragraph.”.

15 (b) CONFORMING PROVISIONS.—(1) Section  
16 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amend-  
17 ed—

18 (A) in the second sentence of clause (ii), by  
19 striking “For discharges” and inserting “Subject to  
20 clause (ix), for discharges”;

21 (B) in clause (v), by adding at the end the fol-  
22 lowing: “The provisions of subsection (h)(7) shall  
23 apply with respect to the first sentence of this clause  
24 in the same manner as it applies with respect to  
25 subsection (h)(4)(F)(i).”; and

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

3 “(ix) For discharges occurring on or after July  
4 1, 2005, insofar as an additional payment amount  
5 under this subparagraph is attributable to resident  
6 positions redistributed to a hospital under subsection  
7 (h)(7)(B), in computing the indirect teaching adjust-  
8 ment factor under clause (ii) the adjustment shall be  
9 computed in a manner as if ‘c’ were equal to 0.66  
10 with respect to such resident positions.”.

11 (2) Chapter 35 of title 44, United States Code, shall  
12 not apply with respect to applications under section  
13 1886(h)(7) of the Social Security Act, as added by sub-  
14 section (a)(3).

15 (c) REPORT ON EXTENSION OF APPLICATIONS  
16 UNDER REDISTRIBUTION PROGRAM.—Not later than July  
17 1, 2005, the Secretary shall submit to Congress a report  
18 containing recommendations regarding whether to extend  
19 the deadline for applications for an increase in resident  
20 limits under section 1886(h)(4)(I)(ii)(II) of the Social Se-  
21 curity Act (as added by subsection (a)).

1     **TITLE IV—OTHER PROVISIONS**

2     **SEC. 401. MEDICAID DISPROPORTIONATE SHARE HOSPITAL**  
3             **(DSH) PAYMENTS.**

4             (a) TEMPORARY INCREASE.—Section 1923(f)(3) (42  
5 U.S.C. 1396r-4(f)(3)) is amended—

6                 (1) in subparagraph (A), by striking “subpara-  
7             graph (B)” and inserting “subparagraphs (B) and  
8             (C)”;

9                 (2) by adding at the end the following new sub-  
10             paragraphs:

11                     “(C) SPECIAL, TEMPORARY INCREASE IN  
12             ALLOTMENTS ON A ONE-TIME, NON-CUMU-  
13             LATIVE BASIS.—The DSH allotment for any  
14             State (other than a State with a DSH allot-  
15             ment determined under paragraph (5))—

16                         “(i) for fiscal year 2004 is equal to  
17                     116 percent of the DSH allotment for the  
18                     State for fiscal year 2003 under this para-  
19                     graph, notwithstanding subparagraph (B);  
20                     and

21                         “(ii) for each succeeding fiscal year is  
22                     equal to the DSH allotment for the State  
23                     for fiscal year 2004 or, in the case of fiscal  
24                     years beginning with the fiscal year speci-  
25                     fied in subparagraph (D) for that State,

1           the DSH allotment for the State for the  
2           previous fiscal year increased by the per-  
3           centage change in the consumer price  
4           index for all urban consumers (all items;  
5           U.S. city average), for the previous fiscal  
6           year.

7           “(D) FISCAL YEAR SPECIFIED.—For pur-  
8           poses of subparagraph (C)(ii), the fiscal year  
9           specified in this subparagraph for a State is the  
10          first fiscal year for which the Secretary esti-  
11          mates that the DSH allotment for that State  
12          will equal (or no longer exceed) the DSH allot-  
13          ment for that State under the law as in effect  
14          before the date of the enactment of this sub-  
15          paragraph.”.

16          (b) INCREASE IN FLOOR FOR TREATMENT AS A LOW  
17          DSH STATE.—Section 1923(f)(5) (42 U.S.C. 1396r-  
18          4(f)(5)) is amended—

19               (1) in the paragraph heading, by striking “EX-  
20               TREMELY”;

21               (2) by striking “In the case of” and inserting  
22               the following:

23                       “(A) FOR FISCAL YEARS 2001 THROUGH  
24                       2003 FOR EXTREMELY LOW DSH STATES.—In  
25                       the case of”;

1           (3) by inserting “before fiscal year 2004” after  
2           “In subsequent years”; and

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

4                   “(B) FOR FISCAL YEAR 2004 AND SUBSE-  
5                   QUENT FISCAL YEARS.—In the case of a State  
6                   in which the total expenditures under the State  
7                   plan (including Federal and State shares) for  
8                   disproportionate share hospital adjustments  
9                   under this section for fiscal year 2000, as re-  
10                  ported to the Administrator of the Centers for  
11                  Medicare & Medicaid Services as of August 31,  
12                  2003, is greater than 0 but less than 3 percent  
13                  of the State’s total amount of expenditures  
14                  under the State plan for medical assistance  
15                  during the fiscal year, the DSH allotment for  
16                  the State with respect to—

17                           “(i) fiscal year 2004 shall be the DSH  
18                           allotment for the State for fiscal year 2003  
19                           increased by 16 percent;

20                           “(ii) each succeeding fiscal year before  
21                           fiscal year 2009 shall be the DSH allot-  
22                           ment for the State for the previous fiscal  
23                           year increased by 16 percent; and

24                           “(iii) fiscal year 2009 and any subse-  
25                           quent fiscal year, shall be the DSH allot-

1                   ment for the State for the previous year  
2                   subject to an increase for inflation as pro-  
3                   vided in paragraph (3)(A).”.

4           (c) IN GENERAL.—Section 1923(f)(5) (42 U.S.C.  
5 1396r-4(f)(5)) is amended to read as follows:

6                   “(5) SPECIAL RULE FOR LOW DSH STATES.—In  
7                   the case of a State in which the total expenditures  
8                   under the State plan (including Federal and State  
9                   shares) for disproportionate share hospital adjust-  
10                  ments under this section for fiscal year 2000, as re-  
11                  ported to the Administrator of the Centers for Medi-  
12                  care & Medicaid Services as of August 31, 2003, is  
13                  greater than 0 but less than 3 percent of the State’s  
14                  total amount of expenditures under the State plan  
15                  for medical assistance during the fiscal year, the  
16                  DSH allotment for the State with respect to—

17                           “(A) fiscal year 2004 shall be the DSH al-  
18                           lotment for the State for fiscal year 2003 in-  
19                           creased by 16 percent;

20                           “(B) each succeeding fiscal year before fis-  
21                           cal year 2009 shall be the DSH allotment for  
22                           the State for the previous fiscal year increased  
23                           by 16 percent; and

24                           “(C) fiscal year 2009 and any subsequent  
25                           fiscal year, shall be the DSH allotment for the

1 State for the previous year subject to an in-  
2 crease for inflation as provided in paragraph  
3 (3)(A).”.

4 (d) ALLOTMENT ADJUSTMENT.—Section 1923(f) of  
5 the Social Security Act (42 U.S.C. 1396r–4(f)) is amend-  
6 ed—

7 (1) in paragraph (3)(A), by striking “The  
8 DSH” and inserting “Except as provided in para-  
9 graph (6), the DSH”;

10 (2) by redesignating paragraph (6) as para-  
11 graph (7); and

12 (3) by inserting after paragraph (5) the fol-  
13 lowing:

14 “(6) ALLOTMENT ADJUSTMENT.—Only with re-  
15 spect to fiscal year 2004 or 2005, if a statewide  
16 waiver under section 1115 is revoked or terminated  
17 before the end of either such fiscal year and there  
18 is no DSH allotment for the State, the Secretary  
19 shall—

20 “(A) permit the State whose waiver was  
21 revoked or terminated to submit an amendment  
22 to its State plan that would describe the meth-  
23 odology to be used by the State (after the effec-  
24 tive date of such revocation or termination) to  
25 identify and make payments to disproportionate

1 share hospitals, including children’s hospitals  
2 and institutions for mental diseases or other  
3 mental health facilities (other than State-owned  
4 institutions or facilities), on the basis of the  
5 proportion of patients served by such hospitals  
6 that are low-income patients with special needs;  
7 and

8 “(B) provide for purposes of this sub-  
9 section for computation of an appropriate DSH  
10 allotment for the State for fiscal year 2004 or  
11 2005 (or both) that would not exceed the  
12 amount allowed under paragraph (3)(B)(ii) and  
13 that does not result in greater expenditures  
14 under this title than would have been made if  
15 such waiver had not been revoked or termi-  
16 nated.

17 In determining the amount of an appropriate DSH  
18 allotment under subparagraph (B) for a State, the  
19 Secretary shall take into account the level of DSH  
20 expenditures for the State for the fiscal year pre-  
21 ceding the fiscal year in which the waiver com-  
22 menced.”.

23 (e) INCREASED REPORTING AND OTHER REQUIRE-  
24 MENTS TO ENSURE THE APPROPRIATE USE OF MED-  
25 ICAID DSH PAYMENT ADJUSTMENTS.—Section 1923 (42

1 U.S.C. 1396r-4) is amended by adding at the end the fol-  
2 lowing new subsection:

3       “(j) ANNUAL REPORTS AND OTHER REQUIREMENTS  
4 REGARDING PAYMENT ADJUSTMENTS.—With respect to  
5 fiscal year 2004 and each fiscal year thereafter, the Sec-  
6 retary shall require a State, as a condition of receiving  
7 a payment under section 1903(a)(1) with respect to a pay-  
8 ment adjustment made under this section, to do the fol-  
9 lowing:

10           “(1) REPORT.—The State shall submit an an-  
11 nual report that includes the following:

12                   “(A) An identification of each dispropor-  
13 tionate share hospital that received a payment  
14 adjustment under this section for the preceding  
15 fiscal year and the amount of the payment ad-  
16 justment made to such hospital for the pre-  
17 ceding fiscal year.

18                   “(B) Such other information as the Sec-  
19 retary determines necessary to ensure the ap-  
20 propriateness of the payment adjustments made  
21 under this section for the preceding fiscal year.

22           “(2) INDEPENDENT CERTIFIED AUDIT.—The  
23 State shall annually submit to the Secretary an inde-  
24 pendent certified audit that verifies each of the fol-  
25 lowing:

1           “(A) The extent to which hospitals in the  
2 State have reduced their uncompensated care  
3 costs to reflect the total amount of payment ad-  
4 justments under this section.

5           “(B) Payments under this section to hos-  
6 pitals that comply with the requirements of sub-  
7 section (g).

8           “(C) Only the uncompensated care costs of  
9 providing inpatient hospital and outpatient hos-  
10 pital services to individuals described in para-  
11 graph (1)(A) of such subsection are included in  
12 the calculation of the hospital-specific limits  
13 under such subsection.

14           “(D) The State included all payments  
15 under this title, including supplemental pay-  
16 ments, in the calculation of such hospital-spe-  
17 cific limits.

18           “(E) The State has separately documented  
19 and retained a record of all of its costs under  
20 this title, claimed expenditures under this title,  
21 uninsured costs in determining payment adjust-  
22 ments under this section, and any payments  
23 made on behalf of the uninsured from payment  
24 adjustments under this section.”.

1 **SEC. 402. PROVIDING SAFE HARBOR FOR CERTAIN COL-**  
2 **LABORATIVE EFFORTS THAT BENEFIT MEDI-**  
3 **CALLY UNDERSERVED POPULATIONS.**

4 (a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C.  
5 1320a–7(b)(3)), as amended by section 101(e)(2), is  
6 amended—

7 (1) in subparagraph (F), by striking “and”  
8 after the semicolon at the end;

9 (2) in subparagraph (G), by striking the period  
10 at the end and inserting “; and”; and

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

13 “(H) any remuneration between a health  
14 center entity described under clause (i) or (ii)  
15 of section 1905(l)(2)(B) and any individual or  
16 entity providing goods, items, services, dona-  
17 tions, loans, or a combination thereof, to such  
18 health center entity pursuant to a contract,  
19 lease, grant, loan, or other agreement, if such  
20 agreement contributes to the ability of the  
21 health center entity to maintain or increase the  
22 availability, or enhance the quality, of services  
23 provided to a medically underserved population  
24 served by the health center entity.”.

25 (b) RULEMAKING FOR EXCEPTION FOR HEALTH  
26 CENTER ENTITY ARRANGEMENTS.—

1 (1) ESTABLISHMENT.—

2 (A) IN GENERAL.—The Secretary shall es-  
3 tablish, on an expedited basis, standards relat-  
4 ing to the exception described in section  
5 1128B(b)(3)(H) of the Social Security Act, as  
6 added by subsection (a), for health center entity  
7 arrangements to the antikickback penalties.

8 (B) FACTORS TO CONSIDER.—The Sec-  
9 retary shall consider the following factors,  
10 among others, in establishing standards relating  
11 to the exception for health center entity ar-  
12 rangements under subparagraph (A):

13 (i) Whether the arrangement between  
14 the health center entity and the other  
15 party results in savings of Federal grant  
16 funds or increased revenues to the health  
17 center entity.

18 (ii) Whether the arrangement between  
19 the health center entity and the other  
20 party restricts or limits an individual's  
21 freedom of choice.

22 (iii) Whether the arrangement be-  
23 tween the health center entity and the  
24 other party protects a health care profes-



1 **SEC. 404. MEDPAC STUDY ON RURAL HOSPITAL PAYMENT**  
2 **ADJUSTMENTS.**

3 (a) IN GENERAL.—The Medicare Payment Advisory  
4 Commission shall conduct a study of the impact of sec-  
5 tions 101 through 106, 112, 202, and 207. The Commis-  
6 sion shall analyze the effect on total payments, growth in  
7 costs, capital spending, and such other payment effects  
8 under those sections.

9 (b) REPORTS.—

10 (1) INTERIM REPORT.—Not later than 18  
11 months after the date of the enactment of this Act,  
12 the Commission shall submit to Congress an interim  
13 report on the matters studied under subsection (a)  
14 with respect only to changes to the critical access  
15 hospital provisions under section 405.

16 (2) FINAL REPORT.—Not later than 3 years  
17 after the date of the enactment of this Act, the  
18 Commission shall submit to Congress a final report  
19 on all matters studied under subsection (a).

20 **SEC. 405. FRONTIER EXTENDED STAY CLINIC DEMONSTRATION**  
21 **PROJECT.**

22 (a) AUTHORITY TO CONDUCT DEMONSTRATION  
23 PROJECT.—The Secretary shall waive such provisions of  
24 the medicare program established under title XVIII of the  
25 Social Security Act (42 U.S.C. 1395 et seq.) as are nec-  
26 essary to conduct a demonstration project under which

1 frontier extended stay clinics described in subsection (b)  
2 in isolated rural areas are treated as providers of items  
3 and services under the medicare program.

4 (b) CLINICS DESCRIBED.—A frontier extended stay  
5 clinic is described in this subsection if the clinic—

6 (1) is located in a community where the closest  
7 short-term acute care hospital or critical access hos-  
8 pital is at least 75 miles away from the community  
9 or is inaccessible by public road; and

10 (2) is designed to address the needs of—

11 (A) seriously or critically ill or injured pa-  
12 tients who, due to adverse weather conditions or  
13 other reasons, cannot be transferred quickly to  
14 acute care referral centers; or

15 (B) patients who need monitoring and ob-  
16 servation for a limited period of time.

17 (c) SPECIFICATION OF CODES.—The Secretary shall  
18 determine the appropriate life-safety codes for such clinics  
19 that treat patients for needs referred to in subsection  
20 (b)(2).

21 (d) FUNDING.—

22 (1) IN GENERAL.—Subject to paragraph (2),  
23 there are authorized to be appropriated, in appro-  
24 priate part from the Federal Hospital Insurance  
25 Trust Fund and the Federal Supplementary Medical

1 Insurance Trust Fund, such sums as are necessary  
2 to conduct the demonstration project under this sec-  
3 tion.

4 (2) BUDGET NEUTRAL IMPLEMENTATION.—In  
5 conducting the demonstration project under this sec-  
6 tion, the Secretary shall ensure that the aggregate  
7 payments made by the Secretary under the medicare  
8 program do not exceed the amount which the Sec-  
9 retary would have paid under the medicare program  
10 if the demonstration project under this section was  
11 not implemented.

12 (e) 3-YEAR PERIOD.—The Secretary shall conduct  
13 the demonstration under this section for a 3-year period.

14 (f) REPORT.—Not later than the date that is 1 year  
15 after the date on which the demonstration project con-  
16 cludes, the Secretary shall submit to Congress a report  
17 on the demonstration project, together with such rec-  
18 ommendations for legislation or administrative action as  
19 the Secretary determines appropriate.

20 (g) DEFINITIONS.—In this section, the terms “hos-  
21 pital” and “critical access hospital” have the meanings  
22 given such terms in subsections (e) and (mm), respec-  
23 tively, of section 1861 of the Social Security Act (42  
24 U.S.C. 1395x).

○