

have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(6) FAILURE TO COMPLY WITH ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

“(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—“(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys’ and expert witness fees) to any party whenever the court determines such award is appropriate.

“(c) EFFECT OF SECTION.—

“(1) OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

“(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

“(d) ENFORCEMENT.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

“(e) LIMITATION.—Subsection (a) shall not apply with respect to an employee of an entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food who, acting without direction from such entity (or such entity’s agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, rule, regulation, standard, or ban under this Act.”

SEC. 403. JURISDICTION; AUTHORITIES.

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding products eligible for voluntary inspection under the Agricultural Marketing Act (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Administration of the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services to issue regulations related to the safety of food under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(4) impede, minimize, or affect the authority of the Secretary of Agriculture to prevent, control, or mitigate a plant or animal health emergency, or a food emergency or foodborne illness outbreak involving products regulated under the Federal Meat Inspection Act, the Poultry Prod-

ucts Inspection Act, the Egg Products Inspection Act, or agreements regarding voluntary inspection under the Agricultural Marketing Act (7 U.S.C. 1621 et seq.).

SEC. 404. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

SEC. 405. UPDATING GUIDANCE RELATING TO FISH AND FISHERIES PRODUCTS HAZARDS AND CONTROLS.

The Secretary shall, not later than 180 days after the date of enactment of this Act, update the Fish and Fisheries Products Hazards and Control Guidance to take into account advances in technology that have occurred since the previous publication of such Guidance by the Secretary.

SEC. 406. FOOD TRANSPORTATION STUDY.

The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall conduct a study of the transportation of food for consumption in the United States, including transportation by air, that includes an examination of the unique needs of rural and frontier areas with regard to the delivery of safe food.

Mr. REID. Mr. President, are we on the bill now?

The PRESIDING OFFICER. Yes, we are.

THE VETERANS’, SENIORS’, AND CHILDREN’S HEALTH TECHNICAL CORRECTIONS ACT OF 2010

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 465, H.R. 5712.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5712) to provide for certain clarifications and extensions under Medicare, Medicaid, and the Children’s Health Insurance Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the substitute amendment, which is at the desk, be considered and that it be agreed to; that the bill, as amended, be read three times and then passed and the motion to reconsider be laid upon the table; that the title amendment, which is also at the desk, be considered and agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4711) in the nature of a substitute, was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “The Physician Payment and Therapy Relief Act of 2010”.

SEC. 2. PHYSICIAN PAYMENT UPDATE.

Section 1848(d)(11) of the Social Security Act (42 U.S.C. 1395w-4(d)(11)) is amended—

(1) in the heading, by striking “NOVEMBER” and inserting “DECEMBER”;

(2) in subparagraph (A), by striking “November 30” and inserting “December 31”; and

(3) in subparagraph (B)—

(A) in the heading, by striking “REMAINING PORTION OF 2010” and inserting “2011”; and

(B) by striking “the period beginning on December 1, 2010, and ending on December 31, 2010, and for”.

SEC. 3. TREATMENT OF MULTIPLE SERVICE PAYMENT POLICIES FOR THERAPY SERVICES.

(a) SMALLER PAYMENT DISCOUNT FOR CERTAIN MULTIPLE THERAPY SERVICES.—Section 1848(b) of the Social Security Act (42 U.S.C. 1395w-4(b)) is amended by adding at the end the following new paragraph:

“(7) ADJUSTMENT IN DISCOUNT FOR CERTAIN MULTIPLE THERAPY SERVICES.—In the case of therapy services furnished on or after January 1, 2011, and for which payment is made under fee schedules established under this section, instead of the 25 percent multiple procedure payment reduction specified in the final rule published by the Secretary in the Federal Register on November 29, 2010, the reduction percentage shall be 20 percent.”.

(b) EXEMPTION OF PAYMENT REDUCTION FROM BUDGET-NEUTRALITY.—Section 1848(c)(2)(B)(v) of the Social Security Act (42 U.S.C. 1395w-4(c)(2)(B)(v)) is amended by adding at the end the following new subclause:

“(VII) REDUCED EXPENDITURES FOR MULTIPLE THERAPY SERVICES.—Effective for fee schedules established beginning with 2011, reduced expenditures attributable to the multiple procedure payment reduction for therapy services (as described in subsection (b)(7)).”.

SEC. 4. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The amendment (No. 4712) was agreed to, as follows:

Amend the file so as to read: An act entitled “The Physician Payment and Therapy Relief Act of 2010.”

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5712) was read the third time and passed.

Mr. REID. Mr. President, I appreciate everyone’s cooperation. This is the SGR extension for 30 days to allow us to spend more time on this and make sure the doctors are able to be compensated. These Medicare patients are extremely important, as are the doctors.

FDA FOOD SAFETY MODERNIZATION ACT—Continued

Mr. REID. Mr. President, I ask unanimous consent that there now be a time for debate only for a period of 20 minutes, with Senator BROWNBACK being recognized for a period of up to 10 minutes and that I be recognized when he completes his statement.

For the benefit of all Members, Senator MCCONNELL and I are trying to work through some procedural issues we have here to give more definition to what we are doing. We are trying to work something out on food safety and