107TH CONGRESS
2D SESSION

H. R. 5246

To amend title XVIII of the Social Security Act to reform payments to rural and other health care providers under the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2002

Mr. LATHAM 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 title XVIII of the Social Security Act to reform payments to rural and other health care providers under the Medicare Program, and for other purposes.

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

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

6 (a) SHORT TITLE.—This Act may be cited as the
7 "Rural Equity Medicare Act of 2002".

1 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
2 cept as otherwise specifically provided, whenever in this
3 Act an amendment is expressed in terms of an amendment
4 to or repeal of a section or other provision, the reference
5 shall be considered to be made to that section or other
6 provision of the Social Security Act.

7 (c) BIPA; SECRETARY.—In this Act:

8 (1) BIPA.—The term "BIPA" means the
9 Medicare, Medicaid, and SCHIP Benefits Improve-
10 ment and Protection Act of 2000, as enacted into
11 law by section 1(a)(6) of Public Law 106–554.

12 (2) SECRETARY.—The term "Secretary" means
13 the Secretary of Health and Human Services.

14 (d) TABLE OF CONTENTS.—The table of contents of
15 this Act is as follows:

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

TITLE I—RURAL HEALTH CARE IMPROVEMENTS

Sec. 101. Reference to full market basket increase for sole community hospitals.
Sec. 102. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 103. 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
Sec. 104. More frequent update in weights used in hospital market basket.
Sec. 105. Improvements to critical access hospital program.
Sec. 106. Extension of temporary increase for home health services furnished in a rural area.
Sec. 107. Reference to 10 percent increase in payment for hospice care furnished in a frontier area and rural hospice demonstration project.
Sec. 108. Reference to priority for hospitals located in rural or small urban areas in redistribution of unused graduate medical education residencies.

Sec. 109. GAO study of geographic differences in payments for physicians' services.
Sec. 110. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.
Sec. 111. Relief for certain non-teaching hospitals.

TITLE II—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 201. Revision of acute care hospital payment updates.
Sec. 202. 2-year increase in level of adjustment for indirect costs of medical education (IME).
Sec. 203. Recognition of new medical technologies under inpatient hospital PPS.
Sec. 204. Phase-in of Federal rate for hospitals in Puerto Rico.
Sec. 205. Reference to provision relating to enhanced disproportionate share hospital (DSH) payments for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 206. Reference to provision relating to 2-year phased-in increase in the standardized amount in rural and small urban areas to achieve a single, uniform standardized amount.
Sec. 207. Reference to provision for more frequent updates in the weights used in hospital market basket.
Sec. 208. Reference to provision making improvements to critical access hospital program.
Sec. 209. GAO study on improving the hospital wage index.

Subtitle B—Skilled Nursing Facility Services

Sec. 211. Payment for covered skilled nursing facility services.

Subtitle C—Hospice

Sec. 221. Coverage of hospice consultation services.
Sec. 222. 10 percent increase in payment for hospice care furnished in a frontier area.
Sec. 223. Rural hospice demonstration project.

Subtitle D—Other Provisions

Sec. 231. Demonstration project for use of recovery audit contractors for part A services.

TITLE III—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

Sec. 301. Revision of updates for physicians' services.
Sec. 302. Studies on access to physicians' services.
Sec. 303. MedPAC report on payment for physicians' services.
Sec. 304. 1-year extension of treatment of certain physician pathology services under medicare.
Sec. 305. Physician fee schedule wage index revision.

Subtitle B—Other Services

Sec. 311. Competitive acquisition of certain items and services.

Sec. 312. Payment for ambulance services.
Sec. 313. 2-year extension of moratorium on therapy caps; provisions relating to reports.
Sec. 314. Coverage of an initial preventive physical examination.
Sec. 315. Renal dialysis services.
Sec. 316. Improved payment for certain mammography services.
Sec. 317. Waiver of part B late enrollment penalty for certain military retirees; special enrollment period.
Sec. 318. Coverage of cholesterol and blood lipid screening.

TITLE IV—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 401. Elimination of 15 percent reduction in payment rates under the prospective payment system.
Sec. 402. Update in home health services.
Sec. 403. OASIS Task Force; suspension of certain OASIS data collection requirements pending Task Force submittal of report.
Sec. 404. MedPAC study on medicare margins of home health agencies.
Sec. 405. Clarification of treatment of occasional absences in determining whether an individual is confined to the home.

Subtitle B—Direct Graduate Medical Education

Sec. 411. Extension of update limitation on high cost programs.
Sec. 412. Redistribution of unused resident positions.

Subtitle C—Other Provisions

Sec. 421. Modifications to Medicare Payment Advisory Commission (MedPAC).
Sec. 422. Demonstration project for disease management for certain medicare beneficiaries with diabetes.
Sec. 423. Demonstration project for medical adult day care services.
Sec. 424. Publication on final written guidance concerning prohibitions against discrimination by national origin with respect to health care services.

1 # TITLE I—RURAL HEALTH CARE
2 # IMPROVEMENTS

3 **SEC. 101. REFERENCE TO FULL MARKET BASKET INCREASE**
4 **FOR SOLE COMMUNITY HOSPITALS.**

5 For provision eliminating any reduction from full
6 market basket in the update for inpatient hospital services
7 for sole community hospitals, see section 201.

1 **SEC. 102. ENHANCED DISPROPORTIONATE SHARE HOS-**
2 **PITAL (DSH) TREATMENT FOR RURAL HOS-**
3 **PITALS AND URBAN HOSPITALS WITH FEWER**
4 **THAN 100 BEDS.**

5 (a) BLENDING OF PAYMENT AMOUNTS.—

6 (1) IN GENERAL.—Section 1886(d)(5)(F) (42
7 U.S.C. 1395ww(d)(5)(F)) is amended by adding at
8 the end the following new clause:

9 ''(xiv)(I) In the case of discharges in a fiscal year
10 beginning on or after October 1, 2002, subject to sub-
11 clause (II), there shall be substituted for the dispropor-
12 tionate share adjustment percentage otherwise determined
13 under clause (iv) (other than subclause (I)) or under
14 clause (viii), (x), (xi), (xii), or (xiii), the old blend propor-
15 tion (specified under subclause (III)) of the dispropor-
16 tionate share adjustment percentage otherwise determined
17 under the respective clause and 100 percent minus such
18 old blend proportion of the disproportionate share adjust-
19 ment percentage determined under clause (vii) (relating
20 to large, urban hospitals).

21 ''(II) Under subclause (I), the disproportionate share
22 adjustment percentage shall not exceed 10 percent for a
23 hospital that is not classified as a rural referral center
24 under subparagraph (C).

25 ''(III) For purposes of subclause (I), the old blend
26 proportion for fiscal year 2003 is 80 percent, for each sub-

1 sequent year (through 2006) is the old blend proportion
2 under this subclause for the previous year minus 20 per-
3 centage points, and for each year beginning with 2007 is
4 0 percent.''.

5 (2) CONFORMING AMENDMENTS.—Section
6 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is
7 amended—

8 (A) in each of subclauses (II), (III), (IV),
9 (V), and (VI) of clause (iv), by inserting ''sub-
10 ject to clause (xiv) and'' before ''for discharges
11 occurring'';

12 (B) in clause (viii), by striking ''The for-
13 mula'' and inserting ''Subject to clause (xiv),
14 the formula''; and

15 (C) in each of clauses (x), (xi), (xii), and
16 (xiii), by striking ''For purposes'' and inserting
17 ''Subject to clause (xiv), for purposes''.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to discharges occur-
20 ring on or after October 1, 2002.

1 **SEC. 103. 2-YEAR PHASED-IN INCREASE IN THE STANDARD-**
2 **IZED AMOUNT IN RURAL AND SMALL URBAN**
3 **AREAS TO ACHIEVE A SINGLE, UNIFORM**
4 **STANDARDIZED AMOUNT.**

5 Section 1886(d)(3)(A)(iv) (42 U.S.C.
6 1395ww(d)(3)(A)(iv)) is amended—

7 (1) by striking ''(iv) For discharges'' and in-
8 serting ''(iv)(I) Subject to the succeeding provisions
9 of this clause, for discharges''; and

10 (2) by adding at the end the following new sub-
11 clauses:

12 ''(II) For discharges occurring during fiscal
13 year 2003, the average standardized amount for hos-
14 pitals located other than in a large urban area shall
15 be increased by ½ of the difference between the av-
16 erage standardized amount determined under sub-
17 clause (I) for hospitals located in large urban areas
18 for such fiscal year and such amount determined
19 (without regard to this subclause) for other hospitals
20 for such fiscal year.

21 ''(III) For discharges occurring in a fiscal year
22 beginning with fiscal year 2004, the Secretary shall
23 compute an average standardized amount for hos-
24 pitals located in any area within the United States
25 and within each region equal to the average stand-
26 ardized amount computed for the previous fiscal

1 year under this subparagraph for hospitals located
2 in a large urban area (or, beginning with fiscal year
3 2005, for hospitals located in any area) increased by
4 the applicable percentage increase under subsection
5 (b)(3)(B)(i).''.

6 **SEC. 104. MORE FREQUENT UPDATE IN WEIGHTS USED IN**
7 **HOSPITAL MARKET BASKET.**

8 (a) MORE FREQUENT UPDATES IN WEIGHTS.—After
9 revising the weights used in the hospital market basket
10 under section 1886(b)(3)(B)(iii) of the Social Security Act
11 (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most cur-
12 rent data available, the Secretary shall establish a fre-
13 quency for revising such weights in such market basket
14 to reflect the most current data available more frequently
15 than once every 5 years.

16 (b) REPORT.—Not later than October 1, 2003, the
17 Secretary shall submit a report to Congress on the fre-
18 quency established under subsection (a), including an ex-
19 planation of the reasons for, and options considered, in
20 determining such frequency.

21 **SEC. 105. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL**
22 **PROGRAM.**

23 (a) REINSTATEMENT OF PERIODIC INTERIM PAY-
24 MENT (PIP).—Section 1815(e)(2) (42 U.S.C.
25 1395g(e)(2)) is amended—

1 (1) by striking "and" at the end of subpara-
2 graph (C);
3 (2) by adding "and" at the end of subpara-
4 graph (D); and
5 (3) by inserting after subparagraph (D) the fol-
6 lowing new subparagraph:
7 "(E) inpatient critical access hospital services;".
8 (b) CONDITION FOR APPLICATION OF SPECIAL PHY-
9 SICIAN PAYMENT ADJUSTMENT.—Section 1834(g)(2) (42
10 U.S.C. 1395m(g)(2)) is amended by adding after and
11 below subparagraph (B) the following:
12 "The Secretary may not require, as a condition for
13 applying subparagraph (B) with respect to a critical
14 access hospital, that each physician providing profes-
15 sional services in the hospital must assign billing
16 rights with respect to such services, except that such
17 subparagraph shall not apply to those physicians
18 who have not assigned such billing rights.".
19 (c) FLEXIBILITY IN BED LIMITATION FOR HOS-
20 PITALS.—Section 1820 (42 U.S.C. 1395i–4) is amended—
21 (1) in subsection (c)(2)(B)(iii), by inserting
22 "subject to paragraph (3)" after "(iii) provides";
23 (2) by adding at the end of subsection (c) the
24 following new paragraph:

1 “(3) INCREASE IN MAXIMUM NUMBER OF BEDS
2 FOR HOSPITALS WITH STRONG SEASONAL CENSUS
3 FLUCTUATIONS.—
4 “(A) IN GENERAL.—Subject to subpara-
5 graph (C), in the case of a hospital that dem-
6 onstrates that it meets the standards estab-
7 lished under subparagraph (B) and has not
8 made the election described in subsection
9 (f)(2)(A), the bed limitations otherwise applica-
10 ble under paragraph (2)(B)(iii) and subsection
11 (f) shall be increased by 5 beds.
12 “(B) STANDARDS.—The Secretary shall
13 specify standards for determining whether a
14 critical access hospital has sufficiently strong
15 seasonal variations in patient admissions to jus-
16 tify the increase in bed limitation provided
17 under subparagraph (A).”; and
18 (3) in subsection (f)—
19 (A) by inserting “(1)” after “(f)”; and
20 (B) by adding at the end the following new
21 paragraph:
22 “(2)(A) A hospital may elect to treat the reference
23 in paragraph (1) to ‘15 beds’ as a reference to ‘25 beds’,
24 but only if no more than 10 beds in the hospital are at
25 any time used for non-acute care services. A hospital that

1 makes such an election is not eligible for the increase pro-
2 vided under subsection (c)(3)(A).

3 ''(B) The limitations in numbers of beds under the
4 first sentence of paragraph (1) are subject to adjustment
5 under subsection (c)(3).''.

6 (d) 5-YEAR EXTENSION OF THE AUTHORIZATION
7 FOR APPROPRIATIONS FOR GRANT PROGRAM.—Section
8 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking
9 ''through 2002'' and inserting ''through 2007''.

10 (e) PROHIBITION OF RETROACTIVE RECOUPMENT.—
11 The Secretary shall not recoup (or otherwise seek to re-
12 cover) overpayments made for outpatient critical access
13 hospital services under part B of title XVIII of the Social
14 Security Act, for services furnished in cost reporting peri-
15 ods that began before October 1, 2002, insofar as such
16 overpayments are attributable to payment being based on
17 80 percent of reasonable costs (instead of 100 percent of
18 reasonable costs minus 20 percent of charges).

19 (f) EFFECTIVE DATES.—

20 (1) REINSTATEMENT OF PIP.—The amend-
21 ments made by subsection (a) shall apply to pay-
22 ments made on or after January 1, 2003.

23 (2) PHYSICIAN PAYMENT ADJUSTMENT CONDI-
24 TION.—The amendment made by subsection (b)
25 shall be effective as if included in the enactment of

section 403(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–371).

(3) FLEXIBILITY IN BED LIMITATION.—The amendments made by subsection (c) shall apply to designations made on or after January 1, 2003, but shall not apply to critical access hospitals that were designated as of such date.

SEC. 106. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) of BIPA (114 Stat. 2763A–533) is amended—

(1) by striking "24-MONTH INCREASE BEGINNING APRIL 1, 2001" and inserting "IN GENERAL"; and

(2) by striking "April 1, 2003" and inserting "January 1, 2005".

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A–553) is amended by striking "the period beginning on April 1, 2001, and ending on September 30, 2002," and inserting "a period under such section".

1 **SEC. 107. REFERENCE TO 10 PERCENT INCREASE IN PAY-**
2 **MENT FOR HOSPICE CARE FURNISHED IN A**
3 **FRONTIER AREA AND RURAL HOSPICE DEM-**
4 **ONSTRATION PROJECT.**

5 For—

6 (1) provision of 10 percent increase in payment
7 for hospice care furnished in a frontier area, see sec-
8 tion 222; and

9 (2) provision of a rural hospice demonstration
10 project, see section 223.

11 **SEC. 108. REFERENCE TO PRIORITY FOR HOSPITALS LO-**
12 **CATED IN RURAL OR SMALL URBAN AREAS IN**
13 **REDISTRIBUTION OF UNUSED GRADUATE**
14 **MEDICAL EDUCATION RESIDENCIES.**

15 For provision providing priority for hospitals located
16 in rural or small urban areas in redistribution of unused
17 graduate medical education residencies, see section 412.

18 **SEC. 109. GAO STUDY OF GEOGRAPHIC DIFFERENCES IN**
19 **PAYMENTS FOR PHYSICIANS' SERVICES.**

20 (a) STUDY.—The Comptroller General of the United
21 States shall conduct a study of differences in payment
22 amounts under the physician fee schedule under section
23 1848 of the Social Security Act (42 U.S.C. 1395w–4) for
24 physicians' services in different geographic areas. Such
25 study shall include—

1 (1) an assessment of the validity of the geo-
2 graphic adjustment factors used for each component
3 of the fee schedule;
4 (2) an evaluation of the measures used for such
5 adjustment, including the frequency of revisions; and
6 (3) an evaluation of the methods used to deter-
7 mine professional liability insurance costs used in
8 computing the malpractice component, including a
9 review of increases in professional liability insurance
10 premiums and variation in such increases by State
11 and physician specialty and methods used to update
12 the geographic cost of practice index and relative
13 weights for the malpractice component.
14 (b) REPORT.—Not later than 1 year after the date
15 of the enactment of this Act, the Comptroller General shall
16 submit to Congress a report on the study conducted under
17 subsection (a). The report shall include recommendations
18 regarding the use of more current data in computing geo-
19 graphic cost of practice indices as well as the use of data
20 directly representative of physicians' costs (rather than
21 proxy measures of such costs).

1 **SEC. 110. 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(b)(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 public
14 or nonprofit private health center entity de-
15 scribed under clause (i) or (ii) of section
16 1905(l)(2)(B) and any individual or entity pro-
17 viding goods, items, services, donations or
18 loans, or a combination thereof, to such health
19 center entity pursuant to a contract, lease,
20 grant, loan, or other agreement, if such agree-
21 ment contributes to the ability of the health
22 center entity to maintain or increase the avail-
23 ability, or enhance the quality, of services pro-
24 vided to a medically underserved population
25 served by the health center entity.''.

1 (b) RULEMAKING FOR EXCEPTION FOR HEALTH
2 CENTER ENTITY ARRANGEMENTS.—
3 (1) ESTABLISHMENT.—
4 (A) IN GENERAL.—The Secretary of
5 Health and Human Services (in this subsection
6 referred to as the ''Secretary'') shall establish,
7 on an expedited basis, standards relating to the
8 exception described in section 1128B(b)(3)(H)
9 of the Social Security Act, as added by sub-
10 section (a), for health center entity arrange-
11 ments to the antikickback penalties.
12 (B) FACTORS TO CONSIDER.—The Sec-
13 retary shall consider the following factors,
14 among others, in establishing standards relating
15 to the exception for health center entity ar-
16 rangements under subparagraph (A):
17 (i) Whether the arrangement between
18 the health center entity and the other
19 party results in savings of Federal grant
20 funds or increased revenues to the health
21 center entity.
22 (ii) Whether the arrangement between
23 the health center entity and the other
24 party restricts or limits a patient's freedom
25 of choice.

1 (iii) Whether the arrangement be-
2 tween the health center entity and the
3 other party protects a health care profes-
4 sional's independent medical judgment re-
5 garding medically appropriate treatment.
6 The Secretary may also include other standards
7 and criteria that are consistent with the intent
8 of Congress in enacting the exception estab-
9 lished under this section.
10 (2) INTERIM FINAL EFFECT.—No later than
11 180 days after the date of enactment of this Act, the
12 Secretary shall publish a rule in the Federal Reg-
13 ister consistent with the factors under paragraph
14 (1)(B). Such rule shall be effective and final imme-
15 diately on an interim basis, subject to such change
16 and revision, after public notice and opportunity (for
17 a period of not more than 60 days) for public com-
18 ment, as is consistent with this subsection.

19 **SEC. 111. RELIEF FOR CERTAIN NON-TEACHING HOS-**
20 **PITALS.**

21 (a) IN GENERAL.—In the case of a non-teaching hos-
22 pital that meets the condition of subsection (b), in each
23 of fiscal years 2003, 2004, and 2005 the amount of pay-
24 ment made to the hospital under section 1886(d) of the
25 Social Security Act for discharges occurring during such

1 fiscal year only shall be increased as though the applicable
2 percentage increase (otherwise applicable to discharges oc-
3 curring during such fiscal year under section
4 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C.
5 1395ww(b)(3)(B)(i)) had been increased by 5 percentage
6 points. The previous sentence shall be applied for each
7 such fiscal year separately without regard to its applica-
8 tion in a previous fiscal year and shall not affect payment
9 for discharges for any hospital occurring during a fiscal
10 year after fiscal year 2005.

11 (b) CONDITION.—A non-teaching hospital meets the
12 condition of this subsection if—

13 (1) it is located in a rural area and the amount
14 of the aggregate payments under subsection (d) of
15 section 1886 of the Social Security Act for hospitals
16 located in rural areas in the State for their cost re-
17 porting periods beginning during fiscal year 1999 is
18 less than the aggregate allowable operating costs of
19 inpatient hospital services (as defined in subsection
20 (a)(4) of such section) for all subsection (d) hos-
21 pitals in such areas in such State with respect to
22 such cost reporting periods; or

23 (2) it is located in an urban area and the
24 amount of the aggregate payments under subsection
25 (d) of such section for hospitals located in urban

1 areas in the State for their cost reporting periods
2 beginning during fiscal year 1999 is less than 103
3 percent of the aggregate allowable operating costs of
4 inpatient hospital services (as defined in subsection
5 (a)(4) of such section) for all subsection (d) hos-
6 pitals in such areas in such State with respect to
7 such cost reporting periods.

8 The amounts under paragraphs (1) and (2) shall be deter-
9 mined by the Secretary of Health and Human Services
10 based on data of the Medicare Payment Advisory Commis-
11 sion.

12 (c) DEFINITIONS.—For purposes of this section:

13 (1) NON-TEACHING HOSPITAL.—The term
14 ''non-teaching hospital'' means, for a cost reporting
15 period, a subsection (d) hospital (as defined in sub-
16 section (d)(1)(B) of section 1886 of the Social Secu-
17 rity Act, 42 U.S.C. 1395ww)) that is not receiving
18 any additional payment under subsection (d)(5)(B)
19 of such section or a payment under subsection (h)
20 of such section for discharges occurring during the
21 period. A subsection (d) hospital that receives addi-
22 tional payments under subsection (d)(5)(B) or (h) of
23 such section shall, for purposes of this section, also
24 be treated as a non-teaching hospital unless a chair-
25 man of a department in the medical school with

1 which the hospital is affiliated is serving or has been
2 appointed as a clinical chief of service in the hos-
3 pital.
4 (2) RURAL; URBAN.—The terms ''rural'' and
5 ''urban'' have the meanings given such terms for
6 purposes of section 1886(d) of the Social Security
7 Act (42 U.S.C. 1395ww(d)).

8 TITLE II—PROVISIONS 9 RELATING TO PART A

10 Subtitle A—Inpatient Hospital 11 Services

12 SEC. 201. REVISION OF ACUTE CARE HOSPITAL PAYMENT 13 UPDATES.

14 Subclause (XVIII) of section 1886(b)(3)(B)(i) (42
15 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as fol-
16 lows:
17 ''(XVIII) for fiscal year 2003, the market bas-
18 ket percentage increase for sole community hospitals
19 and such increase minus 0.25 percentage points for
20 other hospitals, and''.

21 SEC. 202. 2-YEAR INCREASE IN LEVEL OF ADJUSTMENT FOR 22 INDIRECT COSTS OF MEDICAL EDUCATION 23 (IME).

24 Section 1886(d)(5)(B)(ii) (42 U.S.C.
25 1395ww(d)(5)(B)(ii)) is amended—

1 (1) in subclause (VI) by striking "and" at the
2 end;
3 (2) by redesignating subclause (VII) as sub-
4 clause (IX);
5 (3) in subclause (IX) as so redesignated, by
6 striking "2002" and inserting "2004"; and
7 (4) by inserting after subclause (VI) the fol-
8 lowing new subclause:
9 "(VII) during fiscal year 2003, 'c' is equal
10 to 1.47;
11 "(VIII) during fiscal year 2004, 'c' is
12 equal to 1.45; and".

13 **SEC. 203. RECOGNITION OF NEW MEDICAL TECHNOLOGIES**
14 **UNDER INPATIENT HOSPITAL PPS.**

15 (a) IMPROVING TIMELINESS OF DATA COLLEC-
16 TION.—Section 1886(d)(5)(K) (42 U.S.C.
17 1395ww(d)(5)(K)) is amended by adding at the end the
18 following new clause:
19 "(vii) Under the mechanism under this subpara-
20 graph, the Secretary shall provide for the addition of new
21 diagnosis and procedure codes in April 1 of each year, but
22 the addition of such codes shall not require the Secretary
23 to adjust the payment (or diagnosis-related group classi-
24 fication) under this subsection until the fiscal year that
25 begins after such date.".

1 (b) ELIGIBILITY STANDARD.—
2 (1) MINIMUM PERIOD FOR RECOGNITION OF
3 NEW TECHNOLOGIES.—Section 1886(d)(5)(K)(vi)
4 (42 U.S.C. 1395ww(d)(5)(K)(vi)) is amended—
5 (A) by inserting ''(I)'' after ''(vi)''; and
6 (B) by adding at the end the following new
7 subclause:
8 ''(II) Under such criteria, a service or technology
9 shall not be denied treatment as a new service or tech-
10 nology on the basis of the period of time in which the serv-
11 ice or technology has been in use if such period ends before
12 the end of the 2-to-3-year period that begins on the effec-
13 tive date of implementation of a code under ICD–9–CM
14 (or a successor coding methodology) that enables the iden-
15 tification of a significant sample of specific discharges in
16 which the service or technology has been used.''.
17 (2) ADJUSTMENT OF THRESHOLD.—Section
18 1886(d)(5)(K)(ii)(I) (42 U.S.C.
19 1395ww(d)(5)(K)(ii)(I)) is amended by inserting
20 ''(applying a threshold specified by the Secretary
21 that is the lesser of 50 percent of the national aver-
22 age standardized amount for operating costs of inpa-
23 tient hospital services for all hospitals and all diag-
24 nosis-related groups or one standard deviation for

1 the diagnosis-related group involved)'' after ''is inad-
2 equate''.
3 (3) CRITERION FOR SUBSTANTIAL IMPROVE-
4 MENT.—Section 1886(d)(5)(K)(vi) (42 U.S.C.
5 1395ww(d)(5)(K)(vi)), as amended by paragraph
6 (1), is further amended by adding at the end the fol-
7 lowing subclause:
8 ''(III) The Secretary shall by regulation provide for
9 further clarification of the criteria applied to determine
10 whether a new service or technology represents an advance
11 in medical technology that substantially improves the diag-
12 nosis or treatment of beneficiaries. Under such criteria,
13 in determining whether a new service or technology rep-
14 resents an advance in medical technology that substan-
15 tially improves the diagnosis or treatment of beneficiaries,
16 the Secretary shall deem a service or technology as meet-
17 ing such requirement if the service or technology is a drug
18 or biological that is designated under section 506 or 526
19 of the Federal Food, Drug, and Cosmetic Act, approved
20 under section 314.510 or 601.41 of title 21, Code of Fed-
21 eral Regulations, or designated for priority review when
22 the marketing application for such drug or biological was
23 filed or is a medical device for which an exemption has
24 been granted under section 520(m) of such Act, or for

1 which priority review has been provided under section
2 515(d)(5) of such Act.''.

3 (4) PROCESS FOR PUBLIC INPUT.—Section
4 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as
5 amended by paragraph (1), is amended—

6 (A) in clause (i), by adding at the end the
7 following: ''Such mechanism shall be modified
8 to meet the requirements of clause (viii).''; and

9 (B) by adding at the end the following new
10 clause:

11 ''(viii) The mechanism established pursuant to clause
12 (i) shall be adjusted to provide, before publication of a
13 proposed rule, for public input regarding whether a new
14 service or technology not described in the second sentence
15 of clause (vi)(III) represents an advance in medical tech-
16 nology that substantially improves the diagnosis or treat-
17 ment of beneficiaries as follows:

18 ''(I) The Secretary shall make public and peri-
19 odically update a list of all the services and tech-
20 nologies for which an application for additional pay-
21 ment under this subparagraph is pending.

22 ''(II) The Secretary shall accept comments, rec-
23 ommendations, and data from the public regarding
24 whether the service or technology represents a sub-
25 stantial improvement.

1 "(III) The Secretary shall provide for a meeting
2 at which organizations representing hospitals, physi-
3 cians, medicare beneficiaries, manufacturers, and
4 any other interested party may present comments,
5 recommendations, and data to the clinical staff of
6 the Centers for Medicare & Medicaid Services before
7 publication of a notice of proposed rulemaking re-
8 garding whether service or technology represents a
9 substantial improvement.".

10 (c) PREFERENCE FOR USE OF DRG ADJUSTMENT.—
11 Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is
12 further amended by adding at the end the following new
13 clause:

14 "(ix) Before establishing any add-on payment under
15 this subparagraph with respect to a new technology, the
16 Secretary shall seek to identify one or more diagnosis-re-
17 lated groups associated with such technology, based on
18 similar clinical or anatomical characteristics and the cost
19 of the technology. Within such groups the Secretary shall
20 assign an eligible new technology into a diagnosis-related
21 group where the average costs of care most closely approx-
22 imate the costs of care of using the new technology. In
23 such case, no add-on payment under this subparagraph
24 shall be made with respect to such new technology and

1 this clause shall not affect the application of paragraph
2 (4)(C)(iii).''.

3 (d) IMPROVEMENT IN PAYMENT FOR NEW TECH-
4 NOLOGY.—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C.
5 1395ww(d)(5)(K)(ii)(III)) is amended by inserting after
6 ''the estimated average cost of such service or technology''
7 the following: ''(based on the marginal rate applied to
8 costs under subparagraph (A))''.

9 (e) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The Secretary shall imple-
11 ment the amendments made by this section so that
12 they apply to classification for fiscal years beginning
13 with fiscal year 2004.

14 (2) RECONSIDERATIONS OF APPLICATIONS FOR
15 FISCAL YEAR 2003 THAT ARE DENIED.—In the case
16 of an application for a classification of a medical
17 service or technology as a new medical service or
18 technology under section 1886(d)(5)(K) of the Social
19 Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was
20 filed for fiscal year 2003 and that is denied—

21 (A) the Secretary shall automatically re-
22 consider the application as an application for
23 fiscal year 2004 under the amendments made
24 by this section; and

1 (B) the maximum time period otherwise
2 permitted for such classification of the service
3 or technology shall be extended by 12 months.

4 **SEC. 204. PHASE-IN OF FEDERAL RATE FOR HOSPITALS IN**
5 **PUERTO RICO.**

6 Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is
7 amended—
8 (1) in subparagraph (A)—
9 (A) in clause (i), by striking ''for dis-
10 charges beginning on or after October 1, 1997,
11 50 percent (and for discharges between October
12 1, 1987, and September 30, 1997, 75 percent)''
13 and inserting ''the applicable Puerto Rico per-
14 centage (specified in subparagraph (E))''; and
15 (B) in clause (ii), by striking ''for dis-
16 charges beginning in a fiscal year beginning on
17 or after October 1, 1997, 50 percent (and for
18 discharges between October 1, 1987, and Sep-
19 tember 30, 1997, 25 percent)'' and inserting
20 ''the applicable Federal percentage (specified in
21 subparagraph (E))''; and
22 (2) by adding at the end the following new sub-
23 paragraph:
24 ''(E) For purposes of subparagraph (A), for dis-
25 charges occurring—

1 "(i) between October 1, 1987, and September
2 30, 1997, the applicable Puerto Rico percentage is
3 75 percent and the applicable Federal percentage is
4 25 percent;
5 "(ii) on or after October 1, 1997, and before
6 October 1, 2003, the applicable Puerto Rico percent-
7 age is 50 percent and the applicable Federal per-
8 centage is 50 percent;
9 "(iii) during fiscal year 2004, the applicable
10 Puerto Rico percentage is 45 percent and the appli-
11 cable Federal percentage is 55 percent;
12 "(iv) during fiscal year 2005, the applicable
13 Puerto Rico percentage is 40 percent and the appli-
14 cable Federal percentage is 60 percent;
15 "(v) during fiscal year 2006, the applicable
16 Puerto Rico percentage is 35 percent and the appli-
17 cable Federal percentage is 65 percent;
18 "(vi) during fiscal year 2007, the applicable
19 Puerto Rico percentage is 30 percent and the appli-
20 cable Federal percentage is 70 percent; and
21 "(vii) on or after October 1, 2007, the applica-
22 ble Puerto Rico percentage is 25 percent and the ap-
23 plicable Federal percentage is 75 percent.".

1 **SEC. 205. REFERENCE TO PROVISION RELATING TO EN-**
2 **HANCED DISPROPORTIONATE SHARE HOS-**
3 **PITAL (DSH) PAYMENTS FOR RURAL HOS-**
4 **PITALS AND URBAN HOSPITALS WITH FEWER**
5 **THAN 100 BEDS.**

6 For provision enhancing disproportionate share hos-
7 pital (DSH) treatment for rural hospitals and urban hos-
8 pitals with fewer than 100 beds, see section 102.

9 **SEC. 206. REFERENCE TO PROVISION RELATING TO 2-YEAR**
10 **PHASED-IN INCREASE IN THE STANDARDIZED**
11 **AMOUNT IN RURAL AND SMALL URBAN**
12 **AREAS TO ACHIEVE A SINGLE, UNIFORM**
13 **STANDARDIZED AMOUNT.**

14 For provision phasing in over a 2-year period an in-
15 crease in the standardized amount for rural and small
16 urban areas to achieve a single, uniform, standardized
17 amount, see section 103.

18 **SEC. 207. REFERENCE TO PROVISION FOR MORE FRE-**
19 **QUENT UPDATES IN THE WEIGHTS USED IN**
20 **HOSPITAL MARKET BASKET.**

21 For provision providing for more frequent updates in
22 the weights used in hospital market basket, see section
23 104.

1 **SEC. 208. REFERENCE TO PROVISION MAKING IMPROVE-**
2 **MENTS TO CRITICAL ACCESS HOSPITAL PRO-**
3 **GRAM.**

4 For provision providing making improvements to crit-
5 ical access hospital program, see section 105.

6 **SEC. 209. GAO STUDY ON IMPROVING THE HOSPITAL WAGE**
7 **INDEX.**

8 (a) STUDY.—
9 (1) IN GENERAL.—The Comptroller General of
10 the United States shall conduct a study on the im-
11 provements that can be made in the measurement of
12 regional differences in hospital wages reflected in the
13 hospital wage index under section 1886(d) of the So-
14 cial Security Act (42 U.S.C. 1395ww(d)).
15 (2) EXAMINATION OF USE OF METROPOLITAN
16 STATISTICAL AREAS (MSAS).—The study shall spe-
17 cifically examine the use of metropolitan statistical
18 areas for purposes of computing and applying the
19 wage index and whether the boundaries of such
20 areas accurately reflect local labor markets. In addi-
21 tion, the study shall examine whether regional in-
22 equities are created as a result of infrequent updates
23 of such boundaries and policies of the Bureau of the
24 Census relating to commuting criteria.
25 (3) WAGE DATA.—The study shall specifically
26 examine the portions of the hospital cost reports re-

1 lating to wages, and methods for improving the ac-
2 curacy of the wage data and for reducing inequities
3 resulting from differences among hospitals in the re-
4 porting of wage data.

5 (b) CONSULTATION WITH OMB.—The Comptroller
6 General shall consult with the Director of Office of Man-
7 agement and Budget in conducting the study under sub-
8 section (a)(2).

9 (c) REPORT.—Not later than May 1, 2003, the
10 Comptroller General shall submit to Congress a report on
11 the study conducted under subsection (a) and shall include
12 in the report such recommendations as may be appropriate
13 on—

14 (1) changes in the definition of labor market
15 areas used for purposes of the area wage index
16 under section 1886 of the Social Security Act; and
17 (2) improvements in methods for the collection
18 of wage data.

19 Subtitle B—Skilled Nursing
20 Facility Services

21 SEC. 211. PAYMENT FOR COVERED SKILLED NURSING FA-
22 CILITY SERVICES.

23 (a) TEMPORARY INCREASE IN NURSING COMPONENT
24 OF PPS FEDERAL RATE.—Section 312(a) of BIPA is
25 amended by adding at the end the following new sentence:

1 "The Secretary of Health and Human Services shall in-
2 crease by 12, 10, and 8 percent the nursing component
3 of the case-mix adjusted Federal prospective payment rate
4 specified in Tables 3 and 4 of the final rule published in
5 the Federal Register by the Health Care Financing Ad-
6 ministration on July 31, 2000 (65 Fed. Reg. 46770) and
7 as subsequently updated under section 1888(e)(4)(E)(ii)
8 of the Social Security Act (42 U.S.C.
9 1395yy(e)(4)(E)(ii)), effective for services furnished dur-
10 ing fiscal years 2003, 2004, and 2005, respectively.".

11 (b) ADJUSTMENT TO RUGS FOR AIDS RESI-
12 DENTS.—

13 (1) IN GENERAL.—Paragraph (12) of section
14 1888(e) (42 U.S.C. 1395yy(e)) is amended to read
15 as follows:

16 "(12) ADJUSTMENT FOR RESIDENTS WITH
17 AIDS.—

18 "(A) IN GENERAL.—Subject to subpara-
19 graph (B), in the case of a resident of a skilled
20 nursing facility who is afflicted with acquired
21 immune deficiency syndrome (AIDS), the per
22 diem amount of payment otherwise applicable
23 shall be increased by 128 percent to reflect in-
24 creased costs associated with such residents.

1 "(B) SUNSET.—Subparagraph (A) shall
2 not apply on and after such date as the Sec-
3 retary certifies that there is an appropriate ad-
4 justment in the case mix under paragraph
5 (4)(G)(i) to compensate for the increased costs
6 associated with residents described in such sub-
7 paragraph.".
8 (2) EFFECTIVE DATE.—The amendment made
9 by paragraph (1) shall apply to services furnished on
10 or after October 1, 2003.

11 Subtitle C—Hospice

12 **SEC. 221. COVERAGE OF HOSPICE CONSULTATION SERV-**
13 **ICES.**

14 (a) COVERAGE OF HOSPICE CONSULTATION SERV-
15 ICES.—Section 1812(a) (42 U.S.C. 1395d(a)) is
16 amended—
17 (1) by striking "and" at the end of paragraph
18 (3);
19 (2) by striking the period at the end of para-
20 graph (4) and inserting "; and"; and
21 (3) by inserting after paragraph (4) the fol-
22 lowing new paragraph:
23 "(5) for individuals who are terminally ill, have
24 not made an election under subsection (d)(1), and
25 have not previously received services under this

1 paragraph, services that are furnished by a physi-
2 cian who is either the medical director or an em-
3 ployee of a hospice program and that consist of—
4 ‘‘(A) an evaluation of the individual’s need
5 for pain and symptom management;
6 ‘‘(B) counseling the individual with respect
7 to end-of-life issues and care options; and
8 ‘‘(C) advising the individual regarding ad-
9 vanced care planning.’’.
10 (b) PAYMENT.—Section 1814(i) (42 U.S.C. l395f(i))
11 is amended by adding at the end the following new para-
12 graph:
13 ‘‘(4) The amount paid to a hospice program with re-
14 spect to the services under section 1812(a)(5) for which
15 payment may be made under this part shall be equal to
16 an amount equivalent to the amount established for an
17 office or other outpatient visit for evaluation and manage-
18 ment associated with presenting problems of moderate se-
19 verity under the fee schedule established under section
20 1848(b), other than the portion of such amount attrib-
21 utable to the practice expense component.’’.
22 (c) CONFORMING AMENDMENT.—Section
23 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is
24 amended by inserting before the comma at the end the
25 following: ‘‘and services described in section 1812(a)(5)’’.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to services provided by a hospice
3 program on or after January 1, 2004.

4 **SEC. 222. 10 PERCENT INCREASE IN PAYMENT FOR HOS-**
5 **PICE CARE FURNISHED IN A FRONTIER AREA.**

6 (a) IN GENERAL.—Section 1814(i)(1) (42 U.S.C.
7 1395f(i)(1)) is amended by adding at the end the following
8 new subparagraph:

9 ''(D) With respect to hospice care furnished in a fron-
10 tier area on or after January 1, 2003, and before January
11 1, 2008, the payment rates otherwise established for such
12 care shall be increased by 10 percent. For purposes of this
13 subparagraph, the term 'frontier area' means a county in
14 which the population density is less than 7 persons per
15 square mile.''.

16 (b) REPORT ON COSTS.—Not later than January 1,
17 2007, the Comptroller General of the United States shall
18 submit to Congress a report on the costs of furnishing
19 hospice care in frontier areas. Such report shall include
20 recommendations regarding the appropriateness of extend-
21 ing, and modifying, the payment increase provided under
22 the amendment made by subsection (a).

23 **SEC. 223. RURAL HOSPICE DEMONSTRATION PROJECT.**

24 (a) IN GENERAL.—The Secretary shall conduct a
25 demonstration project for the delivery of hospice care to

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

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

12 (c) COMPLIANCE WITH CONDITIONS.—Under the
13 demonstration project—

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

19 (2) payments for hospice care shall be made at
20 the rates otherwise applicable to such care under
21 title XVIII of such Act.

22 The Secretary may require the program to comply with
23 such additional quality assurance standards for its provi-
24 sion of services in its facility as the Secretary deems ap-
25 propriate.

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

6 Subtitle D—Other Provisions

7 SEC. 231. DEMONSTRATION PROJECT FOR USE OF RECOV-
8 ERY AUDIT CONTRACTORS.

9 (a) IN GENERAL.—The Secretary of Health and
10 Human Services shall conduct a demonstration project
11 under this section (in this section referred to as the
12 "project") to demonstrate the use of recovery audit con-
13 tractors under the Medicare Integrity Program in identi-
14 fying underpayments and overpayments and recouping
15 overpayments under the medicare program for services for
16 which payment is made under part A of title XVIII of
17 the Social Security Act. Under the project—
18 (1) payment may be made to such a contractor
19 on a contingent basis;
20 (2) a percentage of the amount recovered may
21 be retained by the Secretary and shall be available
22 to the program management account of the Centers
23 for Medicare & Medicaid Services; and
24 (3) the Secretary shall examine the efficacy of
25 such use with respect to duplicative payments, accu-

1 racy of coding, and other payment policies in which
2 inaccurate payments arise.
3 (b) SCOPE AND DURATION.—The project shall cover
4 at least 2 States and at least 3 contractors and shall last
5 for not longer than 3 years.
6 (c) WAIVER.—The Secretary of Health and Human
7 Services shall waive such provisions of title XVIII of the
8 Social Security Act as may be necessary to provide for
9 payment for services under the project in accordance with
10 subsection (a).
11 (d) QUALIFICATIONS OF CONTRACTORS.—
12 (1) IN GENERAL.—The Secretary shall enter
13 into a recovery audit contract under this section
14 with an entity only if the entity has staff that has
15 knowledge of and experience with the payment rules
16 and regulations under the medicare program or the
17 entity has or will contract with another entity that
18 has such knowledgeable and experienced staff.
19 (2) INELIGIBILITY OF CERTAIN CONTRAC-
20 TORS.—The Secretary may not enter into a recovery
21 audit contract under this section with an entity to
22 the extent that the entity is a fiscal intermediary
23 under section 1816 of the Social Security Act (42
24 U.S.C. 1395h), a carrier under section 1842 of such

1 Act (42 U.S.C. 1395u), or a Medicare Administra-
2 tive Contractor under section 1874A of such Act.
3 (3) PREFERENCE FOR ENTITIES WITH DEM-
4 ONSTRATED PROFICIENCY WITH PRIVATE INSUR-
5 ERS.—In awarding contracts to recovery audit con-
6 tractors under this section, the Secretary shall give
7 preference to those entities that the Secretary deter-
8 mines have demonstrated proficiency in recovery au-
9 dits with private insurers or under the medicaid pro-
10 gram under title XIX of such Act.
11 (e) REPORT.—The Secretary of Health and Human
12 Services shall submit to Congress a report on the project
13 not later than 6 months after the date of its completion.
14 Such reports shall include information on the impact of
15 the project on savings to the medicare program and rec-
16 ommendations on the cost-effectiveness of extending or ex-
17 panding the project.

18 TITLE III—PROVISIONS 19 RELATING TO PART B

20 Subtitle A—Physicians' Services

21 SEC. 301. REVISION OF UPDATES FOR PHYSICIANS' SERV- 22 ICES.

23 (a) UPDATE FOR 2003 THROUGH 2005.—

1 (1) IN GENERAL.—Section 1848(d) (42 U.S.C.
2 1395w–4(d)) is amended by adding at the end the
3 following new paragraphs:
4 ''(5) UPDATE FOR 2003.—The update to the
5 single conversion factor established in paragraph
6 (1)(C) for 2003 is 2 percent.
7 ''(6) SPECIAL RULES FOR UPDATE FOR 2004
8 AND 2005.—The following rules apply in determining
9 the update adjustment factors under paragraph
10 (4)(B) for 2004 and 2005:
11 ''(A) USE OF 2002 DATA IN DETERMINING
12 ALLOWABLE COSTS.—
13 ''(i) The reference in clause (ii)(I) of
14 such paragraph to April 1, 1996, is
15 deemed to be a reference to January 1,
16 2002.
17 ''(ii) The allowed expenditures for
18 2002 is deemed to be equal to the actual
19 expenditures for physicians' services fur-
20 nished during 2002, as estimated by the
21 Secretary.
22 ''(B) 1 PERCENTAGE POINT INCREASE IN
23 GDP UNDER SGR.—The annual average percent-
24 age growth in real gross domestic product per
25 capita under subsection (f)(2)(C) for each of

1 2003, 2004, and 2005 is deemed to be in-
2 creased by 1 percentage point.''.
3 (2) CONFORMING AMENDMENT.—Paragraph
4 (4)(B) of such section is amended, in the matter be-
5 fore clause (i), by inserting ''and paragraph (6)''
6 after ''subparagraph (D)''.
7 (3) NOT TREATED AS CHANGE IN LAW AND
8 REGULATION IN SUSTAINABLE GROWTH RATE DE-
9 TERMINATION.—The amendments made by this sub-
10 section shall not be treated as a change in law for
11 purposes of applying section 1848(f)(2)(D) of the
12 Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)).
13 (b) USE OF 10-YEAR ROLLING AVERAGE IN COM-
14 PUTING GROSS DOMESTIC PRODUCT.—
15 (1) IN GENERAL.—Section 1848(f)(2)(C) (42
16 U.S.C. 1395w–4(f)(2)(C)) is amended—
17 (A) by striking ''projected'' and inserting
18 ''annual average''; and
19 (B) by striking ''from the previous applica-
20 ble period to the applicable period involved''
21 and inserting ''during the 10-year period ending
22 with the applicable period involved''.
23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall apply to computations of the

1 sustainable growth rate for years beginning with
2 2002.
3 (c) ELIMINATION OF TRANSITIONAL ADJUSTMENT.—
4 Section 1848(d)(4)(F) (42 U.S.C. 1395w–4(d)(4)(F)) is
5 amended by striking ''subparagraph (A)'' and all that fol-
6 lows and inserting ''subparagraph (A), for each of 2001
7 and 2002, of −0.2 percent.''.
8 (d) GAO STUDY OF MEDICARE PAYMENT FOR INHA-
9 LATION THERAPY.—
10 (1) STUDY.—The Comptroller General of the
11 United States shall conduct a study to examine the
12 adequacy of current reimbursements for inhalation
13 therapy under the medicare program.
14 (2) REPORT.—Not later than May 1, 2003, the
15 Comptroller General shall submit to Congress a re-
16 port on the study conducted under paragraph (1).
17 **SEC. 302. STUDIES ON ACCESS TO PHYSICIANS' SERVICES.**
18 (a) GAO STUDY ON BENEFICIARY ACCESS TO PHYSI-
19 CIANS' SERVICES.—
20 (1) STUDY.—The Comptroller General of the
21 United States shall conduct a study on access of
22 medicare beneficiaries to physicians' services under
23 the medicare program. The study shall include—
24 (A) an assessment of the use by bene-
25 ficiaries of such services through an analysis of

1 claims submitted by physicians for such services
2 under part B of the medicare program;
3 (B) an examination of changes in the use
4 by beneficiaries of physicians' services over
5 time;
6 (C) an examination of the extent to which
7 physicians are not accepting new medicare
8 beneficiaries as patients.
9 (2) REPORT.—Not later than 18 months after
10 the date of the enactment of this Act, the Comp-
11 troller General shall submit to Congress a report on
12 the study conducted under paragraph (1). The re-
13 port shall include a determination whether—
14 (A) data from claims submitted by physi-
15 cians under part B of the medicare program in-
16 dicate potential access problems for medicare
17 beneficiaries in certain geographic areas; and
18 (B) access by medicare beneficiaries to
19 physicians' services may have improved, re-
20 mained constant, or deteriorated over time.
21 (b) STUDY AND REPORT ON SUPPLY OF PHYSI-
22 CIANS.—
23 (1) STUDY.—The Secretary shall request the
24 Institute of Medicine of the National Academy of
25 Sciences to conduct a study on the adequacy of the

supply of physicians (including specialists) in the United States and the factors that affect such supply.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the study described in paragraph (1), including any recommendations for legislation.

SEC. 303. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.

Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians' services, after the transition to a full resource-based payment system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w–4). Such report shall examine the following matters by physician specialty:

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

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.

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

SEC. 304. 1-YEAR EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of BIPA is amended by striking ''2-year period'' and inserting ''3-year period''.

SEC. 305. PHYSICIAN FEE SCHEDULE WAGE INDEX REVISION.

(a) INDEX REVISION.—

(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, for purposes of payment under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services furnished during 2004, in no case may the work geographic index otherwise calculated under subsection (e)(1)(A)(iii) of such section be less than 0.985.

(2) SECRETARIAL DISCRETION.—Paragraph (1) shall not take effect or be in force if the Secretary determines, taking into account the report of the Comptroller General under subsection (b)(2), that

1 there is no sound economic rationale for the implementation of such paragraph.

(3) EXEMPTION FROM LIMITATION ON ANNUAL ADJUSTMENTS.—Any increase in expenditures attributable to paragraph (1) during 2004 shall not be taken into account in applying section 1848(c)(2)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)(ii)(II)) for that year.

(b) GAO REPORT.—

(1) EVALUATION.—As part of the study on geographic differences in payments for physicians' services conducted under section 109, the Comptroller General shall evaluate the following:

(A) Whether there is a sound economic basis for the implementation of the adjustment under subsection (a)(1) in those areas in which the adjustment applies.

(B) The effect of such adjustment on physician location and retention in areas affected by such adjustment, taking into account—

(i) differences in recruitment costs and retention rates for physicians, including specialists, between large urban areas and other areas; and

(ii) the mobility of physicians, including specialists, over the last decade.

(C) The appropriateness of establishing a floor of 1.0 for the work geographic index.

(2) REPORT.—By not later than September 1, 2003, the Comptroller General shall submit to Congress and to the Secretary a report on the evaluation conducted under paragraph (1).

Subtitle B—Other Services

SEC. 311. COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES.

(a) IN GENERAL.—Section 1847 (42 U.S.C. 1395w–3) is amended to read as follows:

"COMPETITIVE ACQUISITION OF CERTAIN ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF COMPETITIVE ACQUISITION PROGRAMS.—

"(1) IMPLEMENTATION OF PROGRAMS.—

"(A) IN GENERAL.—The Secretary shall establish and implement programs under which competitive acquisition areas are established throughout the United States for contract award purposes for the furnishing under this part of competitively priced items and services (described in paragraph (2)) for which payment

1 is made under this part. Such areas may differ
2 for different items and services.
3 "(B) PHASED-IN IMPLEMENTATION.—The
4 programs shall be phased-in among competitive
5 acquisition areas over a period of not longer
6 than 3 years in a manner so that the competi-
7 tion under the programs occurs in—
8 "(i) at least $1/3$ of such areas in 2004;
9 and
10 "(ii) at least $2/3$ of such areas in
11 2005.
12 "(C) WAIVER OF CERTAIN PROVISIONS.—
13 In carrying out the programs, the Secretary
14 may waive such provisions of the Federal Ac-
15 quisition Regulation as are necessary for the ef-
16 ficient implementation of this section, other
17 than provisions relating to confidentiality of in-
18 formation and such other provisions as the Sec-
19 retary determines appropriate.
20 "(2) ITEMS AND SERVICES DESCRIBED.—The
21 items and services referred to in paragraph (1) are
22 the following:
23 "(A) DURABLE MEDICAL EQUIPMENT AND
24 INHALATION DRUGS USED IN CONNECTION
25 WITH DURABLE MEDICAL EQUIPMENT.—Cov-

1 ered items (as defined in section 1834(a)(13))
2 for which payment is otherwise made under sec-
3 tion 1834(a), other than items used in infusion,
4 and inhalation drugs used in conjunction with
5 durable medical equipment.

6 "(B) OFF-THE-SHELF ORTHOTICS.—
7 Orthotics (described in section 1861(s)(9)) for
8 which payment is otherwise made under section
9 1834(h) which require minimal self-adjustment
10 for appropriate use and does not require exper-
11 tise in trimming, bending, molding, assembling,
12 or customizing to fit to the patient.

13 "(3) EXEMPTION AUTHORITY.—In carrying out
14 the programs under this section, the Secretary may
15 exempt—

16 "(A) areas that are not competitive due to
17 low population density; and

18 "(B) items and services for which the ap-
19 plication of competitive acquisition is not likely
20 to result in significant savings.

21 "(b) PROGRAM REQUIREMENTS.—

22 "(1) IN GENERAL.—The Secretary shall con-
23 duct a competition among entities supplying items
24 and services described in subsection (a)(2) for each
25 competitive acquisition area in which the program is

1 implemented under subsection (a) with respect to
2 such items and services.

3 ''(2) CONDITIONS FOR AWARDING CONTRACT.—

4 ''(A) IN GENERAL.—The Secretary may
5 not award a contract to any entity under the
6 competition conducted in an competitive acqui-
7 sition area pursuant to paragraph (1) to fur-
8 nish such items or services unless the Secretary
9 finds all of the following:

10 ''(i) The entity meets quality and fi-
11 nancial standards specified by the Sec-
12 retary or developed by accreditation enti-
13 ties or organizations recognized by the Sec-
14 retary.

15 ''(ii) The total amounts to be paid
16 under the contract (including costs associ-
17 ated with the administration of the con-
18 tract) are expected to be less than the total
19 amounts that would otherwise be paid.

20 ''(iii) Beneficiary access to a choice of
21 multiple suppliers in the area is main-
22 tained.

23 ''(iv) Beneficiary liability is limited to
24 the applicable percentage of contract
25 award price.

1 "(B) QUALITY STANDARDS.—The quality
2 standards specified under subparagraph (A)(i)
3 shall not be less than the quality standards that
4 would otherwise apply if this section did not
5 apply and shall include consumer services
6 standards. The Secretary shall consult with an
7 expert outside advisory panel composed of an
8 appropriate selection of representatives of phy-
9 sicians, practitioners, and suppliers to review
10 (and advise the Secretary concerning) such
11 quality standards.

12 "(3) CONTENTS OF CONTRACT.—

13 "(A) IN GENERAL.—A contract entered
14 into with an entity under the competition con-
15 ducted pursuant to paragraph (1) is subject to
16 terms and conditions that the Secretary may
17 specify.

18 "(B) TERM OF CONTRACTS.—The Sec-
19 retary shall rebid contracts under this section
20 not less often than once every 3 years.

21 "(4) LIMIT ON NUMBER OF CONTRACTORS.—

22 "(A) IN GENERAL.—The Secretary may
23 limit the number of contractors in a competitive
24 acquisition area to the number needed to meet
25 projected demand for items and services covered

1 under the contracts. In awarding contracts, the
2 Secretary shall take into account the ability of
3 bidding entities to furnish items or services in
4 sufficient quantities to meet the anticipated
5 needs of beneficiaries for such items or services
6 in the geographic area covered under the con-
7 tract on a timely basis.

8 "(B) MULTIPLE WINNERS.—The Secretary
9 shall award contracts to more than one entity
10 submitting a bid in each area for an item or
11 service.

12 "(5) PARTICIPATING CONTRACTORS.—Payment
13 shall not be made for items and services described
14 in subsection (a)(2) furnished by a contractor and
15 for which competition is conducted under this sec-
16 tion unless—

17 "(A) the contractor has submitted a bid
18 for such items and services under this section;
19 and

20 "(B) the Secretary has awarded a contract
21 to the contractor for such items and services
22 under this section.

23 "(6) AUTHORITY TO CONTRACT FOR EDU-
24 CATION, OUTREACH AND COMPLAINT SERVICES.—
25 The Secretary may enter into a contract with an ap-

1 propriate entity to address complaints from bene-
2 ficiaries who receive items and services from an enti-
3 ty with a contract under this section and to conduct
4 appropriate education of and outreach to such bene-
5 ficiaries with respect to the program.

6 ''(c) ANNUAL REPORTS.—The Secretary shall submit
7 to Congress an annual management report on the pro-
8 grams under this section. Each such report shall include
9 information on savings, reductions in cost-sharing, access
10 to items and services, and beneficiary satisfaction.

11 ''(d) DEMONSTRATION PROJECT FOR CLINICAL LAB-
12 ORATORY SERVICES.—

13 ''(1) IN GENERAL.—The Secretary shall con-
14 duct a demonstration project on the application of
15 competitive acquisition under this section to clinical
16 diagnostic laboratory tests—

17 ''(A) for which payment is otherwise made
18 under section 1833(h) or 1834(d)(1) (relating
19 to colorectal cancer screening tests); and

20 ''(B) which are furnished without a face-
21 to-face encounter between the individual and
22 the hospital or physician ordering the tests.

23 ''(2) TERMS AND CONDITIONS.—Such project
24 shall be under the same conditions as are applicable
25 to items and services described in subsection (a)(2).

1 "(3) REPORT.—The Secretary shall submit to
2 Congress—
3 "(A) an initial report on the project not
4 later than December 31, 2004; and
5 "(B) such progress and final reports on
6 the project after such date as the Secretary de-
7 termines appropriate.".
8 (b) CONTINUATION OF CERTAIN DEMONSTRATION
9 PROJECTS.—Notwithstanding the amendment made by
10 subsection (a), with respect to demonstration projects im-
11 plemented by the Secretary under section 1847 of the So-
12 cial Security Act (42 U.S.C. 1395w–3) (relating to the es-
13 tablishment of competitive acquisition areas) that was in
14 effect on the day before the date of the enactment of this
15 Act, each such demonstration project may continue under
16 the same terms and conditions applicable under that sec-
17 tion as in effect on that date.
18 (c) REPORT ON DIFFERENCES IN PAYMENT FOR
19 LABORATORY SERVICES.—Not later than 18 months after
20 the date of the enactment of this Act, the Comptroller
21 General of the United States shall submit to Congress a
22 report that analyzes differences in reimbursement between
23 public and private payors for clinical diagnostic laboratory
24 services.

1 **SEC. 312. PAYMENT FOR AMBULANCE SERVICES.**

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

5 (1) in paragraph (2)(E), by inserting ''con-
6 sistent with paragraph (10)'' after ''in an efficient
7 and fair manner'';

8 (2) by redesignating the paragraph (8) added
9 by section 221(a) of BIPA as paragraph (9); and

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

12 ''(10) PHASE-IN PROVIDING FLOOR USING
13 BLEND OF FEE SCHEDULE AND REGIONAL FEE
14 SCHEDULES.—In carrying out the phase-in under
15 paragraph (2)(E) for each level of service furnished
16 in a year before January 1, 2007, the portion of the
17 payment amount that is based on the fee schedule
18 shall not be less than the following blended rate of
19 the fee schedule under paragraph (1) and of a re-
20 gional fee schedule for the region involved:

21 ''(A) For 2003, 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.

25 ''(B) For 2004, the blended rate shall be
26 based 40 percent on the fee schedule under

1 paragraph (1) and 60 percent on the regional
2 fee schedule.
3 "(C) For 2005, the blended rate shall be
4 based 60 percent on the fee schedule under
5 paragraph (1) and 40 percent on the regional
6 fee schedule.
7 "(D) For 2006, the blended rate shall be
8 based 80 percent on the fee schedule under
9 paragraph (1) and 20 percent on the regional
10 fee schedule.
11 For purposes of this paragraph, the Secretary shall
12 establish a regional fee schedule for each of the 9
13 Census divisions using the methodology (used in es-
14 tablishing the fee schedule under paragraph (1)) to
15 calculate a regional conversion factor and a regional
16 mileage payment rate and using the same payment
17 adjustments and the same relative value units as
18 used in the fee schedule under such paragraph.".
19 (b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG
20 TRIPS.—Section 1834(l), as amended by subsection (a),
21 is further amended by adding at the end the following new
22 paragraph:
23 "(11) ADJUSTMENT IN PAYMENT FOR CERTAIN
24 LONG TRIPS.—In the case of ground ambulance
25 services furnished on or after January 1, 2003, and

1 before January 1, 2008, regardless of where the
2 transportation originates, the fee schedule estab-
3 lished under this subsection shall provide that, with
4 respect to the payment rate for mileage for a trip
5 above 50 miles the per mile rate otherwise estab-
6 lished shall be increased by ¼ of the payment per
7 mile otherwise applicable to such miles.''.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to ambulance services furnished
10 on or after January 1, 2003.

11 **SEC. 313. 2-YEAR EXTENSION OF MORATORIUM ON THER-**
12 **APY CAPS; PROVISIONS RELATING TO RE-**
13 **PORTS.**

14 (a) 2-YEAR EXTENSION OF MORATORIUM ON THER-
15 APY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4))
16 is amended by striking ''and 2002'' and inserting ''2002,
17 2003, and 2004''.

18 (b) PROMPT SUBMISSION OF OVERDUE REPORTS ON
19 PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY
20 SERVICES.—Not later than December 31, 2002, the Sec-
21 retary shall submit to Congress the reports required under
22 section 4541(d)(2) of the Balanced Budget Act of 1997
23 (relating to alternatives to a single annual dollar cap on
24 outpatient therapy) and under section 221(d) of the Medi-
25 care, Medicaid, and SCHIP Balanced Budget Refinement

1 Act of 1999 (relating to utilization patterns for outpatient
2 therapy).
3 (c) IDENTIFICATION OF CONDITIONS AND DISEASES
4 JUSTIFYING WAIVER OF THERAPY CAP.—
5 (1) STUDY.—The Secretary shall request the
6 Institute of Medicine of the National Academy of
7 Sciences to identify conditions or diseases that
8 should justify conducting an assessment of the need
9 to waive the therapy caps under section 1833(g)(4)
10 of the Social Security Act (42 U.S.C. 1395l(g)(4)).
11 (2) REPORTS TO CONGRESS.—Not later than
12 September 1, 2003, the Secretary shall submit to
13 Congress a preliminary report on the conditions and
14 diseases identified under paragraph (1) and not later
15 than December 31, 2003, a final report on the con-
16 ditions and diseases so identified.
17 (d) GAO STUDY OF PATIENT ACCESS TO PHYSICAL
18 THERAPIST SERVICES.—
19 (1) STUDY.—The Comptroller General of the
20 United States shall conduct a study on access to
21 physical therapist services in States authorizing such
22 services without a physician referral and in States
23 that require such a physician referral. The study
24 shall—

1 (A) examine the use of and referral pat-
2 terns for physical therapist services for patients
3 age 50 and older in States that authorize such
4 services without a physician referral and in
5 States that require such a physician referral;
6 (B) examine the use of and referral pat-
7 terns for physical therapist services for patients
8 who are medicare beneficiaries;
9 (C) examine the potential effect of prohib-
10 iting a physician from referring patients to
11 physical therapy services owned by the physi-
12 cian and provided in the physician's office;
13 (D) examine the delivery of physical thera-
14 pists' services within the facilities of Depart-
15 ment of Defense; and
16 (E) analyze the potential impact on medi-
17 care beneficiaries and on expenditures under
18 the medicare program of eliminating the need
19 for a physician referral and physician certifi-
20 cation for physical therapist services under the
21 medicare program.
22 (2) REPORT.—The Comptroller General shall
23 submit to Congress a report on the study conducted
24 under paragraph (1) by not later than 1 year after
25 the date of the enactment of this Act.

1 **SEC. 314. COVERAGE OF AN INITIAL PREVENTIVE PHYS-**
2 **ICAL EXAMINATION.**

3 (a) COVERAGE.—Section 1861(s)(2) (42 U.S.C.
4 1395x(s)(2)) is amended—
5 (1) in subparagraph (U), by striking ''and'' at
6 the end;
7 (2) in subparagraph (V), by inserting ''and'' at
8 the end; and
9 (3) by adding at the end the following new sub-
10 paragraph:
11 ''(W) an initial preventive physical examination
12 (as defined in subsection (ww));''.
13 (b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C.
14 1395x) is amended by adding at the end the following new
15 subsection:
16 ''Initial Preventive Physical Examination
17 ''(ww) The term 'initial preventive physical examina-
18 tion' means physicians' services consisting of a physical
19 examination with the goal of health promotion and disease
20 detection and includes items and services (excluding clin-
21 ical laboratory tests), as determined by the Secretary, con-
22 sistent with the recommendations of the United States
23 Preventive Services Task Force.''.
24 (c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—
25 (1) DEDUCTIBLE.—The first sentence of sec-
26 tion 1833(b) (42 U.S.C. 1395l(b)) is amended—

1 (A) by striking "and" before "(6)", and
2 (B) by inserting before the period at the
3 end the following: ", and (7) such deductible
4 shall not apply with respect to an initial preven-
5 tive physical examination (as defined in section
6 1861(ww))".
7 (2) COINSURANCE.—Section 1833(a)(1) (42
8 U.S.C. 1395l(a)(1)) is amended—
9 (A) in clause (N), by inserting "(or 100
10 percent in the case of an initial preventive phys-
11 ical examination, as defined in section
12 1861(ww))" after "80 percent"; and
13 (B) in clause (O), by inserting "(or 100
14 percent in the case of an initial preventive phys-
15 ical examination, as defined in section
16 1861(ww))" after "80 percent".
17 (d) PAYMENT AS PHYSICIANS' SERVICES.—Section
18 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by in-
19 serting "(2)(W)," after "(2)(S),".
20 (e) OTHER CONFORMING AMENDMENTS.—Section
21 1862(a) (42 U.S.C. 1395y(a)) is amended—
22 (1) in paragraph (1)—
23 (A) by striking "and" at the end of sub-
24 paragraph (H);

1 (B) by striking the semicolon at the end of
2 subparagraph (I) and inserting ", and"; and
3 (C) by adding at the end the following new
4 subparagraph:
5 "(J) in the case of an initial preventive physical
6 examination, which is performed not later than 6
7 months after the date the individual's first coverage
8 period begins under part B;"; and
9 (2) in paragraph (7), by striking "or (H)" and
10 inserting "(H), or (J)".
11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to services furnished on or after
13 January 1, 2004, but only for individuals whose coverage
14 period begins on or after such date.

15 **SEC. 315. RENAL DIALYSIS SERVICES.**

16 (a) REPORT ON DIFFERENCES IN COSTS IN DIF-
17 FERENT SETTINGS.—Not later than 1 year after the date
18 of the enactment of this Act, the Comptroller General of
19 the United States shall submit to Congress a report
20 containing—
21 (1) an analysis of the differences in costs of
22 providing renal dialysis services under the medicare
23 program in home settings and in facility settings;
24 (2) an assessment of the percentage of overhead
25 costs in home settings and in facility settings; and

1 (3) an evaluation of whether the charges for
2 home dialysis supplies and equipment are reasonable
3 and necessary.
4 (b) RESTORING COMPOSITE RATE EXCEPTIONS FOR
5 PEDIATRIC FACILITIES.—
6 (1) IN GENERAL.—Section 422(a)(2) of BIPA
7 is amended—
8 (A) in subparagraph (A), by striking ''and
9 (C)'' and inserting '', (C), and (D)'';
10 (B) in subparagraph (B), by striking ''In
11 the case'' and inserting ''Subject to subpara-
12 graph (D), in the case''; and
13 (C) by adding at the end the following new
14 subparagraph:
15 ''(D) INAPPLICABILITY TO PEDIATRIC FA-
16 CILITIES.—Subparagraphs (A) and (B) shall
17 not apply, as of October 1, 2002, to pediatric
18 facilities that do not have an exception rate de-
19 scribed in subparagraph (C) in effect on such
20 date. For purposes of this subparagraph, the
21 term 'pediatric facility' means a renal facility at
22 least 50 percent of whose patients are individ-
23 uals under 18 years of age.''.
24 (2) CONFORMING AMENDMENT.—The fourth
25 sentence of section 1881(b)(7) (42 U.S.C.

1395rr(b)(7)) is amended by striking ''The Secretary'' and inserting ''Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary''.

(c) INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2004.—Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2004, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

SEC. 316. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: ''and does not include screening mammography (as defined in section 1861(jj)) and unilateral and bilateral diagnostic mammography''.

(b) ADJUSTMENT TO TECHNICAL COMPONENT.—For diagnostic mammography performed on or after January 1, 2004, for which payment is made under the physician fee schedule under section 1848 of the Social Security Act

1 (42 U.S.C. 1395w–4), the Secretary, based on the most
2 recent cost data available, shall provide for an appropriate
3 adjustment in the payment amount for the technical com-
4 ponent of the diagnostic mammography.

5 (c) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to mammography performed on
7 or after January 1, 2004.

8 **SEC. 317. WAIVER OF PART B LATE ENROLLMENT PENALTY**
9 **FOR CERTAIN MILITARY RETIREES; SPECIAL**
10 **ENROLLMENT PERIOD.**

11 (a) WAIVER OF PENALTY.—

12 (1) IN GENERAL.—Section 1839(b) (42 U.S.C.
13 1395r(b)) is amended by adding at the end the fol-
14 lowing new sentence: ''No increase in the premium
15 shall be effected for a month in the case of an indi-
16 vidual who is 65 years of age or older, who enrolls
17 under this part during 2001, 2002, or 2003, and
18 who demonstrates to the Secretary before December
19 31, 2003, that the individual is a covered beneficiary
20 (as defined in section 1072(5) of title 10, United
21 States Code). The Secretary of Health and Human
22 Services shall consult with the Secretary of Defense
23 in identifying individuals described in the previous
24 sentence.''.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to premiums for
3 months beginning with January 2003. The Secretary
4 of Health and Human Services shall establish a
5 method for providing rebates of premium penalties
6 paid for months on or after January 2003 for which
7 a penalty does not apply under such amendment but
8 for which a penalty was previously collected.
9 (b) MEDICARE PART B SPECIAL ENROLLMENT PE-
10 RIOD.—
11 (1) IN GENERAL.—In the case of any individual
12 who, as of the date of the enactment of this Act, is
13 65 years of age or older, is eligible to enroll but is
14 not enrolled under part B of title XVIII of the So-
15 cial Security Act, and is a covered beneficiary (as
16 defined in section 1072(5) of title 10, United States
17 Code), the Secretary of Health and Human Services
18 shall provide for a special enrollment period during
19 which the individual may enroll under such part.
20 Such period shall begin as soon as possible after the
21 date of the enactment of this Act and shall end on
22 December 31, 2003.
23 (2) COVERAGE PERIOD.—In the case of an indi-
24 vidual who enrolls during the special enrollment pe-
25 riod provided under paragraph (1), the coverage pe-

1 riod under part B of title XVIII of the Social Secu-
2 rity Act shall begin on the first day of the month
3 following the month in which the individual enrolls.

4 **SEC. 318. COVERAGE OF CHOLESTEROL AND BLOOD LIPID**
5 **SCREENING.**

6 (a) COVERAGE.—Section 1861(s)(2) (42 U.S.C.
7 1395x(s)(2)), as amended by section 314(a), is amended—
8 (1) in subparagraph (V), by striking ‘‘and’’ at
9 the end;
10 (2) in subparagraph (W), by inserting ‘‘and’’ at
11 the end; and
12 (3) by adding at the end the following new sub-
13 paragraph:
14 ‘‘(X) cholesterol and other blood lipid
15 screening tests (as defined in subsection
16 (XX));’’.
17 (b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C.
18 1395x), as amended by section 314(b), is amended by add-
19 ing at the end the following new subsection:
20 ‘‘Cholesterol and Other Blood Lipid Screening Test
21 ‘‘(xx)(1) The term ‘cholesterol and other blood lipid
22 screening test’ means diagnostic testing of cholesterol and
23 other lipid levels of the blood for the purpose of early de-
24 tection of abnormal cholesterol and other lipid levels.

1 "(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cholesterol and other blood lipid screening tests, except that such frequency may not be more often than once every 2 years.".

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 314(e), is amended—

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

(2) by striking the semicolon at the end of subparagraph (J) and inserting "; and"; and

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

"(K) in the case of a cholesterol and other blood lipid screening test (as defined in section 1861(xx)(1)), which is performed more frequently than is covered under section 1861(xx)(2).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

1 # TITLE IV—PROVISIONS
2 # RELATING TO PARTS A AND B
3 ## Subtitle A—Home Health Services

4 **SEC. 401. ELIMINATION OF 15 PERCENT REDUCTION IN**
5 **PAYMENT RATES UNDER THE PROSPECTIVE**
6 **PAYMENT SYSTEM.**

7 (a) IN GENERAL.—Section 1895(b)(3)(A) (42 U.S.C.
8 1395fff(b)(3)(A)) is amended to read as follows:

9 ‘‘(A) INITIAL BASIS.—Under such system
10 the Secretary shall provide for computation of
11 a standard prospective payment amount (or
12 amounts) as follows:

13 ‘‘(i) Such amount (or amounts) shall
14 initially be based on the most current au-
15 dited cost report data available to the Sec-
16 retary and shall be computed in a manner
17 so that the total amounts payable under
18 the system for fiscal year 2001 shall be
19 equal to the total amount that would have
20 been made if the system had not been in
21 effect and if section 1861(v)(1)(L)(ix) had
22 not been enacted.

23 ‘‘(ii) For fiscal year 2002 and for the
24 first quarter of fiscal year 2003, such
25 amount (or amounts) shall be equal to the

1 amount (or amounts) determined under
2 this paragraph for the previous fiscal year,
3 updated under subparagraph (B).
4 "(iii) For 2003, such amount (or
5 amounts) shall be equal to the amount (or
6 amounts) determined under this paragraph
7 for fiscal year 2002, updated under sub-
8 paragraph (B) for 2003.
9 "(iv) For 2004 and each subsequent
10 year, such amount (or amounts) shall be
11 equal to the amount (or amounts) deter-
12 mined under this paragraph for the pre-
13 vious year, updated under subparagraph
14 (B).
15 Each such amount shall be standardized in a
16 manner that eliminates the effect of variations
17 in relative case mix and area wage adjustments
18 among different home health agencies in a
19 budget neutral manner consistent with the case
20 mix and wage level adjustments provided under
21 paragraph (4)(A). Under the system, the Sec-
22 retary may recognize regional differences or dif-
23 ferences based upon whether or not the services
24 or agency are in an urbanized area.".

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect as if included in the
3 amendments made by section 501 of the Medicare, Med-
4 icaid, and SCHIP Benefits Improvement and Protection
5 Act of 2000 (as enacted into law by section 1(a)(6) of
6 Public Law 106–554).

7 **SEC. 402. UPDATE IN HOME HEALTH SERVICES.**

8 (a) CHANGE TO CALENDAR YEAR UPDATE.—
9 (1) IN GENERAL.—Section 1895(b) (42 U.S.C.
10 1395fff(b)(3)) is amended—
11 (A) in paragraph (3)(B)(i)—
12 (i) by striking "each fiscal year (be-
13 ginning with fiscal year 2002)" and insert-
14 ing "fiscal year 2002 and for each subse-
15 quent year (beginning with 2003)"; and
16 (ii) by inserting "or year" after "the
17 fiscal year";
18 (B) in paragraph (3)(B)(ii)—
19 (i) in subclause (II), by striking "fis-
20 cal year" and inserting "year" and by re-
21 designating such subclause as subclause
22 (III); and
23 (ii) in subclause (I), by striking "each
24 of fiscal years 2002 and 2003" and insert-
25 ing the following: "fiscal year 2002, the

1 home health market basket percentage in-
2 crease (as defined in clause (iii)) minus 1.1
3 percentage points;
4 ''(II) 2003'';
5 (C) in paragraph (3)(B)(iii), by inserting
6 ''or year'' after ''fiscal year'' each place it ap-
7 pears;
8 (D) in paragraph (3)(B)(iv)—
9 (i) by inserting ''or year'' after ''fiscal
10 year'' each place it appears; and
11 (ii) by inserting ''or years'' after ''fis-
12 cal years''; and
13 (E) in paragraph (5), by inserting ''or
14 year'' after ''fiscal year''.
15 (2) TRANSITION RULE.—The standard prospec-
16 tive payment amount (or amounts) under section
17 1895(b)(3) of the Social Security Act for the cal-
18 endar quarter beginning on October 1, 2002, shall
19 be such amount (or amounts) for the previous cal-
20 endar quarter.
21 (b) CHANGES IN UPDATES FOR 2003, 2004, AND
22 2005.—Section 1895(b)(3)(B)(ii) (42 U.S.C.
23 1395fff(b)(3)(B)(ii)), as amended by subsection (a)(1)(B),
24 is amended—

1 (1) in subclause (II), by striking ''the home
2 health market basket percentage increase (as defined
3 in clause (iii)) minus 1.1 percentage points'' and in-
4 serting ''2.0 percentage points'';
5 (2) by striking ''or'' at the end of subclause
6 (II);
7 (3) by redesignating subclause (III) as sub-
8 clause (V); and
9 (4) by inserting after subclause (II) the fol-
10 lowing new subclause:
11 ''(III) 2004, 1.1 percentage
12 points;
13 ''(IV) 2005, 2.7 percentage
14 points; or''.
15 (c) PAYMENT ADJUSTMENT.—
16 (1) IN GENERAL.—Section 1895(b)(5) (42
17 U.S.C. 1395fff(b)(5)) is amended by striking ''5 per-
18 cent'' and inserting ''3 percent''.
19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall apply to years beginning with
21 2003.

1 **SEC. 403. OASIS TASK FORCE; SUSPENSION OF CERTAIN**
2 **OASIS DATA COLLECTION REQUIREMENTS**
3 **PENDING TASK FORCE SUBMITTAL OF RE-**
4 **PORT.**

5 (a) ESTABLISHMENT.—The Secretary of Health and
6 Human Services shall establish and appoint a task force
7 (to be known as the ''OASIS Task Force'') to examine
8 the data collection and reporting requirements under
9 OASIS. For purposes of this section, the term ''OASIS''
10 means the Outcome and Assessment Information Set re-
11 quired by reason of section 4602(e) of Balanced Budget
12 Act of 1997 (42 U.S.C. 1395fff note).

13 (b) COMPOSITION.—The OASIS Task Force shall be
14 composed of the following:

15 (1) Staff of the Centers for Medicare & Med-
16 icaid Services with expertise in post-acute care.

17 (2) Representatives of home health agencies.

18 (3) Health care professionals and research and
19 health care quality experts outside the Federal Gov-
20 ernment with expertise in post-acute care.

21 (4) Advocates for individuals requiring home
22 health services.

23 (c) DUTIES.—

24 (1) REVIEW AND RECOMMENDATIONS.—The
25 OASIS Task Force shall review and make rec-
26 ommendations to the Secretary regarding changes in

OASIS to improve and simplify data collection for purposes of—

(A) assessing the quality of home health services; and

(B) providing consistency in classification of patients into home health resource groups (HHRGs) for payment under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(2) SPECIFIC ITEMS.—In conducting the review under paragraph (1), the OASIS Task Force shall specifically examine—

(A) the 41 outcome measures currently in use;

(B) the timing and frequency of data collection; and

(C) the collection of information on comorbidities and clinical indicators.

(3) REPORT.—The OASIS Task Force shall submit a report to the Secretary containing its findings and recommendations for changes in OASIS by not later than 18 months after the date of the enactment of this Act.

(d) SUNSET.—The OASIS Task Force shall terminate 60 days after the date on which the report is submitted under subsection (c)(2).

1 (e) NONAPPLICATION OF FACA.—The provisions of
2 the Federal Advisory Committee Act shall not apply to
3 the OASIS Task Force.

4 (f) SUSPENSION OF OASIS REQUIREMENT FOR COL-
5 LECTION OF DATA ON NON-MEDICARE AND NON-MED-
6 ICAID PATIENTS PENDING TASK FORCE REPORT.—

7 (1) IN GENERAL.—During the period described
8 in paragraph (2), the Secretary of Health and
9 Human Services may not require, under section
10 4602(e) of the Balanced Budget Act of 1997 or oth-
11 erwise under OASIS, a home health agency to gath-
12 er or submit information that relates to an indi-
13 vidual who is not eligible for benefits under either
14 title XVIII or title XIX of the Social Security Act.

15 (2) PERIOD OF SUSPENSION.—The period de-
16 scribed in this paragraph—

17 (A) begins on January 1, 2003, and

18 (B) ends on the last day of the 2nd month
19 beginning after the date the report is submitted
20 under subsection (c)(2).

21 **SEC. 404. MEDPAC STUDY ON MEDICARE MARGINS OF**
22 **HOME HEALTH AGENCIES.**

23 (a) STUDY.—The Medicare Payment Advisory Com-
24 mission shall conduct a study of payment margins of home
25 health agencies under the home health prospective pay-

1 ment system under section 1895 of the Social Security Act
2 (42 U.S.C. 1395fff). Such study shall examine whether
3 systematic differences in payment margins are related to
4 differences in case mix (as measured by home health re-
5 source groups (HHRGs)) among such agencies. The study
6 shall use the partial or full-year cost reports filed by home
7 health agencies.

8 (b) REPORT.—Not later than 2 years after the date
9 of the enactment of this Act, the Commission shall submit
10 to Congress a report on the study under subsection (a).

11 **SEC. 405. CLARIFICATION OF TREATMENT OF OCCASIONAL**
12 **ABSENCES IN DETERMINING WHETHER AN**
13 **INDIVIDUAL IS CONFINED TO THE HOME.**

14 (a) IN GENERAL.—The penultimate sentence of sec-
15 tion 1814(a) (42 U.S.C. 1395f(a) and the penultimate
16 sentence of section 1835(a) (42 U.S.C. 1395n(a)) are each
17 amended to read as follows: ''Any other absence of an indi-
18 vidual from the home shall not so disqualify the individual
19 if the absence is infrequent or of relatively short duration,
20 such as an occasional trip to the barber or a walk around
21 the block, and is not inconsistent with the assessment un-
22 derlying the individual's plan of care for home health serv-
23 ices.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Direct Graduate Medical Education

SEC. 411. EXTENSION OF UPDATE LIMITATION ON HIGH COST PROGRAMS.

Section 1886(h)(2)(D)(iv) (42 U.S.C. 1395ww(h)(2)(D)(iv)) is amended—

(1) in subclause (I)—

(A) by striking "AND 2002" and inserting "THROUGH 2012";

(B) by striking "during fiscal year 2001 or fiscal year 2002" and inserting "during the period beginning with fiscal year 2001 and ending with fiscal year 2012"; and

(C) by striking "subject to subclause (III),";

(2) by striking subclause (II); and

(3) in subclause (III)—

(A) by redesignating such subclause as subclause (II); and

(B) by striking "or (II)".

1 **SEC. 412. REDISTRIBUTION OF UNUSED RESIDENT POSI-**
2 **TIONS.**

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

5 (1) in subparagraph (F)(i), by inserting "sub-
6 ject to subparagraph (I)," after "October 1, 1997,";

7 (2) in subparagraph (H)(i), by inserting "sub-
8 ject to subparagraph (I)," after "subparagraphs (F)
9 and (G),"; and

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

12 "(I) REDISTRIBUTION OF UNUSED RESI-
13 DENT POSITIONS.—

14 "(i) REDUCTION IN LIMIT BASED ON
15 UNUSED POSITIONS.—

16 "(I) IN GENERAL.—If a hos-
17 pital's resident level (as defined in
18 clause (iii)(I)) is less than the other-
19 wise applicable resident limit (as de-
20 fined in clause (iii)(II)) for each of
21 the reference periods (as defined in
22 subclause (II)), effective for cost re-
23 porting periods beginning on or after
24 January 1, 2003, the otherwise appli-
25 cable resident limit shall be reduced
26 by 75 percent of the difference be-

1 tween such limit and the reference
2 resident level specified in subclause
3 (III) (or subclause (IV) if applicable).

4 "(II) REFERENCE PERIODS DE-
5 FINED.—In this clause, the term 'ref-
6 erence periods' means, for a hospital,
7 the 3 most recent consecutive cost re-
8 porting periods of the hospital for
9 which cost reports have been settled
10 (or, if not, submitted) on or before
11 September 30, 2001.

12 "(III) REFERENCE RESIDENT
13 LEVEL.—Subject to subclause (IV),
14 the reference resident level specified in
15 this subclause for a hospital is the
16 highest resident level for the hospital
17 during any of the reference periods.

18 "(IV) ADJUSTMENT PROCESS.—
19 Upon the timely request of a hospital,
20 the Secretary may adjust the ref-
21 erence resident level for a hospital to
22 be the resident level for the hospital
23 for the cost reporting period that in-
24 cludes July 1, 2002.

25 "(ii) REDISTRIBUTION.—

1 "(I) IN GENERAL.—The Sec-
2 retary is authorized to increase the
3 otherwise applicable resident limits for
4 hospitals by an aggregate number es-
5 timated by the Secretary that does
6 not exceed the aggregate reduction in
7 such limits attributable to clause (i)
8 (without taking into account any ad-
9 justment under subclause (IV) of such
10 clause).

11 "(II) EFFECTIVE DATE.—No in-
12 crease under subclause (I) shall be
13 permitted or taken into account for a
14 hospital for any portion of a cost re-
15 porting period that occurs before July
16 1, 2003, or before the date of the hos-
17 pital's application for an increase
18 under this clause. No such increase
19 shall be permitted for a hospital un-
20 less the hospital has applied to the
21 Secretary for such increase by Decem-
22 ber 31, 2004.

23 "(III) CONSIDERATIONS IN RE-
24 DISTRIBUTION.—In determining for
25 which hospitals the increase in the

1 otherwise applicable resident limit is
2 provided under subclause (I), the Sec-
3 retary shall take into account the
4 need for such an increase by specialty
5 and location involved, consistent with
6 subclause (IV).

7 "(IV) PRIORITY FOR RURAL AND
8 SMALL URBAN AREAS.—In deter-
9 mining for which hospitals and resi-
10 dency training programs an increase
11 in the otherwise applicable resident
12 limit is provided under subclause (I),
13 the Secretary shall first distribute the
14 increase to programs of hospitals lo-
15 cated in rural areas or in urban areas
16 that are not large urban areas (as de-
17 fined for purposes of subsection (d))
18 on a first-come-first-served basis (as
19 determined by the Secretary) based on
20 a demonstration that the hospital will
21 fill the positions made available under
22 this clause and not to exceed an in-
23 crease of 25 full-time equivalent posi-
24 tions with respect to any hospital.

1 "(V) APPLICATION OF LOCALITY
2 ADJUSTED NATIONAL AVERAGE PER
3 RESIDENT AMOUNT.—With respect to
4 additional residency positions in a
5 hospital attributable to the increase
6 provided under this clause, notwith-
7 standing any other provision of this
8 subsection, the approved FTE resi-
9 dent amount is deemed to be equal to
10 the locality adjusted national average
11 per resident amount computed under
12 subparagraph (E) for that hospital.
13 "(VI) CONSTRUCTION.—Nothing
14 in this clause shall be construed as
15 permitting the redistribution of reduc-
16 tions in residency positions attrib-
17 utable to voluntary reduction pro-
18 grams under paragraph (6) or as af-
19 fecting the ability of a hospital to es-
20 tablish new medical residency training
21 programs under subparagraph (H).
22 "(iii) RESIDENT LEVEL AND LIMIT
23 DEFINED.—In this subparagraph:
24 "(I) RESIDENT LEVEL.—The
25 term 'resident level' means, with re-

1 spect to a hospital, the total number
2 of full-time equivalent residents, be-
3 fore the application of weighting fac-
4 tors (as determined under this para-
5 graph), in the fields of allopathic and
6 osteopathic medicine for the hospital.
7 ''(II) OTHERWISE APPLICABLE
8 RESIDENT LIMIT.—The term 'other-
9 wise applicable resident limit' means,
10 with respect to a hospital, the limit
11 otherwise applicable under subpara-
12 graphs (F)(i) and (H) on the resident
13 level for the hospital determined with-
14 out regard to this subparagraph.''.
15 (b) NO APPLICATION OF INCREASE TO IME.—Sec-
16 tion 1886(d)(5)(B)(v) (42 U.S.C. 1395ww(d)(5)(B)(v)) is
17 amended by adding at the end the following: ''The provi-
18 sions of clause (i) of subparagraph (I) of subsection (h)(4)
19 shall apply with respect to the first sentence of this clause
20 in the same manner as it applies with respect to subpara-
21 graph (F) of such subsection, but the provisions of clause
22 (ii) of such subparagraph shall not apply.''.
23 (c) REPORT ON EXTENSION OF APPLICATIONS
24 UNDER REDISTRIBUTION PROGRAM.—Not later than July
25 1, 2004, the Secretary shall submit to Congress a report

1 containing recommendations regarding whether to extend
2 the deadline for applications for an increase in resident
3 limits under section 1886(h)(4)(I)(ii)(II) of the Social Se-
4 curity Act (as added by subsection (a)).

5 Subtitle C—Other Provisions

6 SEC. 421. MODIFICATIONS TO MEDICARE PAYMENT ADVI-
7 SORY COMMISSION (MEDPAC).

8 (a) EXAMINATION OF BUDGET CONSEQUENCES.—
9 Section 1805(b) (42 U.S.C. 1395b–6(b)) is amended by
10 adding at the end the following new paragraph:

11 ‘‘(8) EXAMINATION OF BUDGET CON-
12 SEQUENCES.—Before making any recommendations,
13 the Commission shall examine the budget con-
14 sequences of such recommendations, directly or
15 through consultation with appropriate expert enti-
16 ties.’’.

17 (b) CONSIDERATION OF EFFICIENT PROVISION OF
18 SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b–
19 6(b)(2)(B)(i)) is amended by inserting ‘‘the efficient provi-
20 sion of’’ after ‘‘expenditures for’’.

21 (c) ADDITIONAL REPORTS.—

22 (1) DATA NEEDS AND SOURCES.—The Medicare
23 Payment Advisory Commission shall conduct a
24 study, and submit a report to Congress by not later
25 than June 1, 2003, on the need for current data,

1 and sources of current data available, to determine
2 the solvency and financial circumstances of hospitals
3 and other medicare providers of services. The Com-
4 mission shall examine data on uncompensated care,
5 as well as the share of uncompensated care ac-
6 counted for by the expenses for treating illegal
7 aliens.

8 (2) USE OF TAX-RELATED RETURNS.—Using
9 return information provided under Form 990 of the
10 Internal Revenue Service, the Commission shall sub-
11 mit to Congress, by not later than June 1, 2003, a
12 report on the following:

13 (A) Investments and capital financing of
14 hospitals participating under the medicare pro-
15 gram and related foundations.

16 (B) Access to capital financing for private
17 and for not-for-profit hospitals.

18 **SEC. 422. DEMONSTRATION PROJECT FOR DISEASE MAN-**
19 **AGEMENT FOR CERTAIN MEDICARE BENE-**
20 **FICIARIES WITH DIABETES.**

21 (a) IN GENERAL.—The Secretary of Health and
22 Human Services shall conduct a demonstration project
23 under this section (in this section referred to as the
24 ''project'') to demonstrate the impact on costs and health
25 outcomes of applying disease management to certain medi-

1 care beneficiaries with diagnosed diabetes. In no case may
2 the number of participants in the project exceed 30,000
3 at any time.
4 (b) VOLUNTARY PARTICIPATION.—
5 (1) ELIGIBILITY.—Medicare beneficiaries are
6 eligible to participate in the project only if—
7 (A) they are a member of a health dis-
8 parity population (as defined in section
9 485E(d) of the Public Health Service Act),
10 such as Hispanics;
11 (B) they meet specific medical criteria
12 demonstrating the appropriate diagnosis and
13 the advanced nature of their disease;
14 (C) their physicians approve of participa-
15 tion in the project; and
16 (D) they are not enrolled in a
17 Medicare+Choice plan.
18 (2) BENEFITS.—A medicare beneficiary who is
19 enrolled in the project shall be eligible—
20 (A) for disease management services re-
21 lated to their diabetes; and
22 (B) for payment for all costs for prescrip-
23 tion drugs without regard to whether or not
24 they relate to the diabetes, except that the

1 project may provide for modest cost-sharing
2 with respect to prescription drug coverage.
3 (c) CONTRACTS WITH DISEASE MANAGEMENT ORGA-
4 NIZATIONS.—
5 (1) IN GENERAL.—The Secretary of Health and
6 Human Services shall carry out the project through
7 contracts with up to three disease management orga-
8 nizations. The Secretary shall not enter into such a
9 contract with an organization unless the organiza-
10 tion demonstrates that it can produce improved
11 health outcomes and reduce aggregate medicare ex-
12 penditures consistent with paragraph (2).
13 (2) CONTRACT PROVISIONS.—Under such
14 contracts—
15 (A) such an organization shall be required
16 to provide for prescription drug coverage de-
17 scribed in subsection (b)(2)(B);
18 (B) such an organization shall be paid a
19 fee negotiated and established by the Secretary
20 in a manner so that (taking into account sav-
21 ings in expenditures under parts A and B of
22 the medicare program under title XVIII of the
23 Social Security Act) there will be no net in-
24 crease, and to the extent practicable, there will
25 be a net reduction in expenditures under the

1 medicare program as a result of the project;
2 and
3 (C) such an organization shall guarantee,
4 through an appropriate arrangement with a re-
5 insurance company or otherwise, the prohibition
6 on net increases in expenditures described in
7 subparagraph (B).
8 (3) PAYMENTS.—Payments to such organiza-
9 tions shall be made in appropriate proportion from
10 the Trust Funds established under title XVIII of the
11 Social Security Act.
12 (d) APPLICATION OF MEDIGAP PROTECTIONS TO
13 DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to
14 paragraph (2), the provisions of section 1882(s)(3) (other
15 than clauses (i) through (iv) of subparagraph (B)) and
16 1882(s)(4) of the Social Security Act shall apply to enroll-
17 ment (and termination of enrollment) in the demonstra-
18 tion project under this section, in the same manner as they
19 apply to enrollment (and termination of enrollment) with
20 a Medicare+Choice organization in a Medicare+Choice
21 plan.
22 (2) In applying paragraph (1)—
23 (A) any reference in clause (v) or (vi) of section
24 1882(s)(3)(B) of such Act to 12 months is deemed

1 a reference to the period of the demonstration
2 project; and
3 (B) the notification required under section
4 1882(s)(3)(D) of such Act shall be provided in a
5 manner specified by the Secretary of Health and
6 Human Services.
7 (e) DURATION.—The project shall last for not longer
8 than 3 years.
9 (f) WAIVER.—The Secretary of Health and Human
10 Services shall waive such provisions of title XVIII of the
11 Social Security Act as may be necessary to provide for
12 payment for services under the project in accordance with
13 subsection (c)(3).
14 (g) REPORT.—The Secretary of Health and Human
15 Services shall submit to Congress an interim report on the
16 project not later than 2 years after the date it is first im-
17 plemented and a final report on the project not later than
18 6 months after the date of its completion. Such reports
19 shall include information on the impact of the project on
20 costs and health outcomes and recommendations on the
21 cost-effectiveness of extending or expanding the project.
22 (h) WORKING GROUP ON MEDICARE DISEASE MAN-
23 AGEMENT PROGRAMS.—The Secretary shall establish
24 within the Department of Health and Human Services a

1 working group consisting of employees of the Department
2 to carry out the following:
3 (1) To oversee the project.
4 (2) To establish policy and criteria for medicare
5 disease management programs within the Depart-
6 ment, including the establishment of policy and cri-
7 teria for such programs.
8 (3) To identify targeted medical conditions and
9 targeted individuals.
10 (4) To select areas in which such programs are
11 carried out.
12 (5) To monitor health outcomes under such
13 programs.
14 (6) To measure the effectiveness of such pro-
15 grams in meeting any budget neutrality require-
16 ments.
17 (7) Otherwise to serve as a central focal point
18 within the Department for dissemination of informa-
19 tion on medicare disease management programs.
20 (i) GAO STUDY ON DISEASE MANAGEMENT PRO-
21 GRAMS.—The Comptroller General of the United States
22 shall conduct a study that compares disease management
23 programs under title XVIII of the Social Security Act with
24 such programs conducted in the private sector, including
25 the prevalence of such programs and programs for case

1 management. The study shall identify the cost-effective-
2 ness of such programs and any savings achieved by such
3 programs. The Comptroller General shall submit a report
4 on such study to Congress by not later than 18 months
5 after the date of the enactment of this Act.

6 **SEC. 423. DEMONSTRATION PROJECT FOR MEDICAL ADULT**
7 **DAY CARE SERVICES.**

8 (a) ESTABLISHMENT.—Subject to the succeeding
9 provisions of this section, the Secretary of Health and
10 Human Services shall establish a demonstration project
11 (in this section referred to as the ''demonstration project'')
12 under which the Secretary shall, as part of a plan of an
13 episode of care for home health services established for
14 a medicare beneficiary, permit a home health agency, di-
15 rectly or under arrangements with a medical adult day
16 care facility, to provide medical adult day care services as
17 a substitute for a portion of home health services that
18 would otherwise be provided in the beneficiary's home.

19 (b) PAYMENT.—

20 (1) IN GENERAL.—The amount of payment for
21 an episode of care for home health services, a por-
22 tion of which consists of substitute medical adult
23 day care services, under the demonstration project
24 shall be made at a rate equal to 95 percent of the
25 amount that would otherwise apply for such home

1 health services under section 1895 of the Social Se-
2 curity Act (42 U.S.C. 1395fff). In no case may a
3 home health agency, or a medical adult day care fa-
4 cility under arrangements with a home health agen-
5 cy, separately charge a beneficiary for medical adult
6 day care services furnished under the plan of care.
7 (2) BUDGET NEUTRALITY FOR DEMONSTRA-
8 TION PROJECT.—Notwithstanding any other provi-
9 sion of law, the Secretary shall provide for an appro-
10 priate reduction in the aggregate amount of addi-
11 tional payments made under section 1895 of the So-
12 cial Security Act (42 U.S.C. 1395fff) to reflect any
13 increase in amounts expended from the Trust Funds
14 as a result of the demonstration project conducted
15 under this section.
16 (c) DEMONSTRATION PROJECT SITES.—The project
17 established under this section shall be conducted in not
18 more than 5 States selected by the Secretary that license
19 or certify providers of services that furnish medical adult
20 day care services.
21 (d) DURATION.—The Secretary shall conduct the
22 demonstration project for a period of 3 years.
23 (e) VOLUNTARY PARTICIPATION.—Participation of
24 medicare beneficiaries in the demonstration project shall
25 be voluntary. The total number of such beneficiaries that

1 may participate in the project at any given time may not
2 exceed 15,000.

3 (f) PREFERENCE IN SELECTING AGENCIES.—In se-
4 lecting home health agencies to participate under the dem-
5 onstration project, the Secretary shall give preference to
6 those agencies that are currently licensed or certified
7 through common ownership and control to furnish medical
8 adult day care services.

9 (g) WAIVER AUTHORITY.—The Secretary may waive
10 such requirements of title XVIII of the Social Security Act
11 as may be necessary for the purposes of carrying out the
12 demonstration project, other than waiving the requirement
13 that an individual be homebound in order to be eligible
14 for benefits for home health services.

15 (h) EVALUATION AND REPORT.—The Secretary shall
16 conduct an evaluation of the clinical and cost effectiveness
17 of the demonstration project. Not later 30 months after
18 the commencement of the project, the Secretary shall sub-
19 mit to Congress a report on the evaluation, and shall in-
20 clude in the report the following:

21 (1) An analysis of the patient outcomes and
22 costs of furnishing care to the medicare beneficiaries
23 participating in the project as compared to such out-
24 comes and costs to beneficiaries receiving only home
25 health services for the same health conditions.

1 (2) Such recommendations regarding the exten-
2 sion, expansion, or termination of the project as the
3 Secretary determines appropriate.
4 (i) DEFINITIONS.—In this section:
5 (1) HOME HEALTH AGENCY.—The term ''home
6 health agency'' has the meaning given such term in
7 section 1861(o) of the Social Security Act (42
8 U.S.C. 1395x(o)).
9 (2) MEDICAL ADULT DAY CARE FACILITY.—The
10 term ''medical adult day care facility'' means a facil-
11 ity that—
12 (A) has been licensed or certified by a
13 State to furnish medical adult day care services
14 in the State for a continuous 2-year period;
15 (B) is engaged in providing skilled nursing
16 services and other therapeutic services directly
17 or under arrangement with a home health agen-
18 cy;
19 (C) meets such standards established by
20 the Secretary to assure quality of care and such
21 other requirements as the Secretary finds nec-
22 essary in the interest of the health and safety
23 of individuals who are furnished services in the
24 facility; and

1 (D) provides medical adult day care serv-
2 ices.
3 (3) MEDICAL ADULT DAY CARE SERVICES.—
4 The term ''medical adult day care services'' means—
5 (A) home health service items and services
6 described in paragraphs (1) through (7) of sec-
7 tion 1861(m) furnished in a medical adult day
8 care facility;
9 (B) a program of supervised activities fur-
10 nished in a group setting in the facility that—
11 (i) meet such criteria as the Secretary
12 determines appropriate; and
13 (ii) is designed to promote physical
14 and mental health of the individuals; and
15 (C) such other services as the Secretary
16 may specify.
17 (4) MEDICARE BENEFICIARY.—The term
18 ''medicare beneficiary'' means an individual entitled
19 to benefits under part A of this title, enrolled under
20 part B of this title, or both.

SEC. 424. PUBLICATION ON FINAL WRITTEN GUIDANCE CONCERNING PROHIBITIONS AGAINST DISCRIMINATION BY NATIONAL ORIGIN WITH RESPECT TO HEALTH CARE SERVICES.

Not later than January 1, 2003, the Secretary shall issue final written guidance concerning the application of the prohibition in title VI of the Civil Rights Act of 1964 against national origin discrimination as it affects persons with limited English proficiency with respect to access to health care services under the medicare program.

○