

112TH CONGRESS
1ST SESSION

S. 1251

To amend titles XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2011

Mr. CARPER (for himself, Mr. COBURN, Mr. BENNET, Mr. ENZI, Mr. CORKER, Mr. BROWN of Massachusetts, Ms. KLOBUCHAR, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare and Medicaid Fighting Fraud and Abuse to
6 Save Taxpayers’ Dollars Act” or the “Medicare and Med-
7 icaid FAST Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—PREVENTING PRESCRIPTION DRUG WASTE, FRAUD,
AND ABUSE

Sec. 101. Requiring valid National Provider Identifiers of prescribers on pharmacy claims and limiting access to the National Provider Identifier Registry.

Sec. 102. Encouraging the establishment of State Prescription Drug Monitoring Programs.

Sec. 103. Updating of DEA database of controlled substances providers.

TITLE II—CURBING IMPROPER PAYMENTS

Sec. 201. Addressing vulnerabilities identified by Recovery Audit Contractors.

Sec. 202. Improving Senior Medicare Patrol and fraud reporting rewards.

Sec. 203. Prohibiting the display of Social Security account numbers on newly issued Medicare identification cards and communications provided to Medicare beneficiaries.

Sec. 204. Requiring prepayment review of all claims for durable medical equipment at high risk of waste, fraud, and abuse.

Sec. 205. Strengthening Medicaid Program integrity through flexibility.

TITLE III—IMPROVING DATA SHARING ACROSS AGENCIES AND
PROGRAMS

Sec. 301. Improving data sharing across agencies and programs.

Sec. 302. Expanding automated prepayment review of Medicare claims.

Sec. 303. Improving the sharing of data between the Federal Government and State Medicaid programs.

Sec. 304. Improving claims processing and detection of fraud within the Medicaid and CHIP programs.

Sec. 305. Reports.

TITLE IV—IMPROVING CMS CONTRACTOR PERFORMANCE

Sec. 401. Establishing Medicare administrative contractor error reduction incentives.

Sec. 402. Separating provider enrollment and screening from Medicare administrative contractors.

Sec. 403. Developing measurable performance metrics for Medicare contractors.

TITLE V—OTHER PROVISIONS

Sec. 501. Strengthening penalties for the illegal distribution of a Medicare, Medicaid, or CHIP beneficiary identification or billing privileges.

Sec. 502. Providing implementation funding.

1 **TITLE I—PREVENTING PRE-**
 2 **SCRIPTION DRUG WASTE,**
 3 **FRAUD, AND ABUSE**

4 **SEC. 101. REQUIRING VALID NATIONAL PROVIDER IDENTIFI-**
 5 **FIERS OF PRESCRIBERS ON PHARMACY**
 6 **CLAIMS AND LIMITING ACCESS TO THE NA-**
 7 **TIONAL PROVIDER IDENTIFIER REGISTRY.**

8 (a) REQUIRING VALID NATIONAL PROVIDER IDENTIFI-
 9 FIERS OF PRESCRIBERS ON PHARMACY CLAIMS.—Section
 10 1860D–4(c) of the Social Security Act (42 U.S.C. 1395w–
 11 104(c)) is amended by adding at the end the following new
 12 paragraph:

13 “(4) REQUIRING VALID NATIONAL PROVIDER
 14 IDENTIFIERS OF PRESCRIBERS ON PHARMACY
 15 CLAIMS.—

16 “(A) IN GENERAL.—For plan year 2013
 17 and subsequent plan years, subject to subpara-
 18 graph (B), the Secretary shall prohibit PDP
 19 sponsors of prescription drug plans from paying
 20 claims for prescription drugs under this part
 21 that do not include the valid National Provider
 22 Identifier for the drug’s prescriber.

23 “(B) PROCEDURES.—The Secretary shall
 24 establish—

1 “(i) procedures for determining the
2 validity of National Provider Identifiers
3 under subparagraph (A); and

4 “(ii) procedures for transferring to
5 the Inspector General of the Department
6 of Health and Human Services and appro-
7 priate law enforcement agencies and other
8 oversight entities information on those Na-
9 tional Provider Identifiers and pharmacy
10 claims, including records related to such
11 claims, that the Secretary determines are
12 invalid under clause (i).

13 “(C) REPORT.—Not later than January 1,
14 2014, the Inspector General of the Department
15 of Health and Human Services shall submit to
16 Congress a report on the effectiveness of the
17 procedures established under subparagraph
18 (B).”.

19 (b) LIMITING ACCESS TO NATIONAL PROVIDER
20 IDENTIFIER REGISTRY.—

21 (1) IN GENERAL.—The Secretary of Health and
22 Human Services (in this subsection referred to as
23 the “Secretary”), in consultation with the Attorney
24 General, the Inspector General of the Department of
25 Health and Human Services, the Chairman of the

1 Federal Trade Commission, and affected parties (in-
2 cluding prescription drug plans under part D of title
3 XVIII of the Social Security Act (42 U.S.C. 1395w-
4 101 et seq.), MA-PD plans under part C of title
5 XVIII of the Social Security Act (42 U.S.C. 1395w-
6 21 et seq.), pharmacies, physicians, and pharmacy
7 computer vendors), shall establish procedures and
8 rules to restrict access to the National Provider
9 Identifier Registry in order to deter its fraudulent
10 use.

11 (2) ACCESS.—The procedures established under
12 paragraph (1) shall provide governmental and non-
13 governmental entities, as appropriate, access to such
14 Registry under data use agreements and in accord-
15 ance with rules established by the Secretary under
16 such paragraph.

17 **SEC. 102. ENCOURAGING THE ESTABLISHMENT OF STATE**
18 **PRESCRIPTION DRUG MONITORING PRO-**
19 **GRAMS.**

20 (a) ENCOURAGING THE ESTABLISHMENT OF STATE
21 PRESCRIPTION DRUG MONITORING PROGRAMS.—Title
22 XIX of the Social Security Act (42 U.S.C. 1396 et seq.)
23 is amended by adding at the end the following new section:

1 **“SEC. 1947. ENCOURAGING THE ESTABLISHMENT OF STATE**
2 **PRESCRIPTION DRUG MONITORING PRO-**
3 **GRAMS.**

4 “(a) IN GENERAL.—To encourage the establishment
5 and use of a State Prescription Drug Monitoring Pro-
6 gram, notwithstanding sections 1905(b) and 1927(g), and
7 for purposes of paragraphs (2)(B) and (3)(A) of section
8 1903(d), if a State has established a State Prescription
9 Drug Monitoring Program that has been certified as meet-
10 ing the requirements under subsection (b), with respect
11 to any amounts recovered by or paid to a State subsequent
12 to the date of such certification that are related to an over-
13 payment due to fraud, waste, or abuse in connection the
14 provision of covered services under the State plan, the
15 Federal medical assistance percentage with respect to such
16 amounts shall be decreased by 10 percentage points. A
17 State may use such amounts recovered by or paid to the
18 State to support the State Prescription Drug Monitoring
19 Program established by the State.

20 “(b) REQUIREMENTS.—For purposes of subsection
21 (a), the requirements of this subsection are that the Attor-
22 ney General certifies to the Secretary that the State has
23 established a State Prescription Drug Monitoring Pro-
24 gram. In making a certification under the preceding sen-
25 tence, the Attorney General shall take into consideration
26 requirements with respect to Prescription Drug Moni-

1 toring Programs under the Harold Rogers Prescription
2 Drug Monitoring Program administered by the Depart-
3 ment of Justice or the National All Schedules Prescription
4 Electronic Reporting program administered by the De-
5 partment of Health and Human Services.

6 “(c) COMMISSION TO EXAMINE INTEROPERABILITY
7 AND OTHER RELATED ISSUES.—

8 “(1) ESTABLISHMENT.—The Secretary and the
9 Attorney General shall jointly establish a Commis-
10 sion to examine interoperability and other issues re-
11 lated to State Prescription Drug Monitoring Pro-
12 grams, including—

13 “(A) best practices with respect to uniform
14 electronic formats for the reporting, sharing,
15 and disclosure of information under such Pro-
16 grams; and

17 “(B) the ability to interface with such Pro-
18 grams.

19 “(2) MEMBERSHIP.—The Commission shall be
20 composed of the following members:

21 “(A) The Secretary.

22 “(B) The Attorney General.

23 “(C) The heads of other appropriate agen-
24 cies (as determined jointly by the Secretary and
25 the Attorney General).

1 “(D) Stakeholders appointed jointly by the
2 Secretary and the Attorney General.

3 “(3) NO COMPENSATION OF MEMBERS.—

4 “(A) NON-FEDERAL EMPLOYEES.—A
5 member of the Commission who is not an offi-
6 cer or employee of the Federal Government
7 shall serve without compensation.

8 “(B) FEDERAL EMPLOYEES.—A member
9 of the Commission who is an officer or em-
10 ployee of the Federal Government shall serve
11 without compensation in addition to the com-
12 pensation received for the services of the mem-
13 ber as an officer or employee of the Federal
14 Government.

15 “(4) DURATION.—The Commission shall termi-
16 nate on the date that is 3 years after the date of en-
17 actment of the Medicare and Medicaid Fighting
18 Fraud and Abuse to Save Taxpayers’ Dollars Act”.

19 (b) INCLUSION OF PRESCRIPTION DRUG MONI-
20 TORING PROGRAMS IN MEDICARE PART D OVERSIGHT.—
21 Not later than 180 days after the date of enactment of
22 this Act, the Secretary of Health and Human Services
23 shall submit to Congress a plan on how Medicare part D
24 oversight contractors and other oversight activities under
25 part D of title XVIII of the Social Security Act (42 U.S.C.

1 1395w–101 et seq.) can utilize State Prescription Drug
2 Monitoring Programs.

3 **SEC. 103. UPDATING OF DEA DATABASE OF CONTROLLED**
4 **SUBSTANCES PROVIDERS.**

5 (a) IN GENERAL.—

6 (1) UPDATING BASED ON DEATH MASTER
7 FILE.—Not less frequently than on a daily basis, the
8 Attorney General shall update the database of the
9 Drug Enforcement Agency of persons registered to
10 manufacture, distribute, or dispense a controlled
11 substance under part C of title II of the Controlled
12 Substances Act (21 U.S.C. 821 et seq.) to reflect
13 any changes in the information in the Death Master
14 File of the Social Security Administration.

15 (2) UPDATING BASED ON OTHER INFORMATION
16 REPORTED TO THE SOCIAL SECURITY ADMINISTRA-
17 TION.—The Attorney General shall enter into an
18 agreement with the Commissioner of Social Security
19 to obtain information regarding deaths reported to
20 the Commissioner, including death information re-
21 ported to the Commissioner under section 205(r) of
22 the Social Security Act (42 U.S.C. 405(r)), in order
23 to update the database of the Drug Enforcement
24 Agency of persons registered to manufacture, dis-
25 tribute, or dispense a controlled substance under

1 part C of title II of the Controlled Substances Act
2 (21 U.S.C. 821 et seq.) to reflect any deaths re-
3 ported to the Commissioner of Social Security. The
4 Attorney General shall take any actions required by
5 the agreement with the Commissioner to maintain
6 the confidentiality of such data and to assure that
7 the data is used solely for the purposes of this para-
8 graph.

9 (b) LIMITING ACCESS TO DEA DATABASE OF REG-
10 ISTRANTS.—

11 (1) IN GENERAL.—The Attorney General, in
12 consultation with the Secretary of Health and
13 Human Services, the Inspector General of the De-
14 partment of Health and Human Services, the Chair-
15 man of the Federal Trade Commission, and affected
16 parties (including prescription drug plans under part
17 D of title XVIII of the Social Security Act (42
18 U.S.C. 1395w-101 et seq.), MA-PD plans under
19 part C of title XVIII of the Social Security Act (42
20 U.S.C. 1395w-21 et seq.), pharmacies, physicians,
21 and pharmacy computer vendors), shall establish
22 procedures and rules to restrict access to the data-
23 base of the Drug Enforcement Agency of persons
24 registered to manufacturer, distribute, or dispense a
25 controlled substance under part C of title II of the

1 Controlled Substances Act (21 U.S.C. 821 et seq.)
2 in order to deter its fraudulent use.

3 (2) ACCESS.—The procedures established under
4 paragraph (1) shall provide governmental and non-
5 governmental entities, as appropriate, access to such
6 database under data use agreements and in accord-
7 ance with rules established by the Attorney General
8 under such paragraph.

9 (c) REVIEW AND INVESTIGATION OF INVALID DEA
10 REGISTRATION NUMBERS.—The Attorney General, in
11 consultation with the Secretary of Health and Human
12 Services, the Inspector General of the Department of
13 Health and Human Services, the Chairman of the Federal
14 Trade Commission, and affected parties (including pre-
15 scription drug plans under part D of title XVIII of the
16 Social Security Act (42 U.S.C. 1395w–101 et seq.), MA-
17 PD plans under part C of title XVIII of the Social Secu-
18 rity Act (42 U.S.C. 1395w–21 et seq.), pharmacies, physi-
19 cians, and pharmacy computer vendors), shall establish
20 procedures and rules to review and investigate pharmacy
21 claims under such part D that contain a registration num-
22 ber that was not assigned by the Attorney General under
23 the Controlled Substances Act (21 U.S.C. 801 et seq.) to
24 a practitioner (as defined in section 102 of such Act (21
25 U.S.C. 802)). Such procedures shall include the matching

1 of National Provider Identifiers submitted under section
 2 1860D–4(c)(4) of the Social Security Act, as added by
 3 section 101(a), to such registration numbers and the in-
 4 vestigation of such registration numbers that are matched
 5 to a National Provider Identifier determined to be invalid
 6 under such section.

7 (d) SENSE OF CONGRESS.—It is the sense of Con-
 8 gress that the Attorney General should include in the up-
 9 dates required under subsection (a) any other information
 10 determined relevant by the Attorney General, such as in-
 11 formation from State Medical Boards.

12 **TITLE II—CURBING IMPROPER** 13 **PAYMENTS**

14 **SEC. 201. ADDRESSING VULNERABILITIES IDENTIFIED BY** 15 **RECOVERY AUDIT CONTRACTORS.**

16 Section 1893(h) of the Social Security Act (42 U.S.C.
 17 1395ddd(h)) is amended—

18 (1) in paragraph (1)(C), by inserting “and for
 19 provider education and overpayment appeals” before
 20 the period;

21 (2) in paragraph (8)—

22 (A) by striking “REPORT.—The Secretary”
 23 and inserting “REPORT.—

24 “(A) IN GENERAL.—Subject to subpara-
 25 graph (C), the Secretary”; and

1 (B) by adding after subparagraph (A), as
2 inserted by subparagraph (A), the following new
3 subparagraphs:

4 “(B) INCLUSION OF IMPROPER PAYMENT
5 VULNERABILITIES IDENTIFIED.—Each report
6 submitted under subparagraph (A) shall, sub-
7 ject to subparagraph (C), include—

8 “(i) a description of—

9 “(I) the types and financial cost
10 to the program under this title of im-
11 proper payment vulnerabilities identi-
12 fied by recovery audit contractors
13 under this subsection; and

14 “(II) how the Secretary is ad-
15 dressing such improper payment
16 vulnerabilities; and

17 “(ii) an assessment of the effective-
18 ness of changes made to payment policies
19 and procedures under this title in order to
20 address the vulnerabilities so identified.

21 “(C) LIMITATION.—The Secretary shall
22 ensure that each report submitted under sub-
23 paragraph (A) does not include information
24 that the Secretary determines would be sen-

1 sitive or would otherwise negatively impact pro-
2 gram integrity.”; and

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

5 “(10) ADDRESSING IMPROPER PAYMENT
6 VULNERABILITIES.—The Secretary shall address im-
7 proper payment vulnerabilities identified by recovery
8 audit contractors under this subsection in a timely
9 manner.”.

10 **SEC. 202. IMPROVING SENIOR MEDICARE PATROL AND**
11 **FRAUD REPORTING REWARDS.**

12 (a) IN GENERAL.—The Secretary shall develop a
13 plan, including suggested legislative changes to implement
14 such plan, under which the Secretary shall revise the bene-
15 ficiary incentive program under section 203(b) of the
16 Health Insurance Portability and Accountability Act of
17 1996 (42 U.S.C. 1395b–5(b)) to encourage greater par-
18 ticipation by individuals to report fraud and abuse in the
19 Medicare program. Such plan shall include recommenda-
20 tions for ways to enhance rewards for individuals report-
21 ing under the incentive program, including providing a
22 monetary reward prior to the full recovery of an overpay-
23 ment.

24 (b) PUBLIC AWARENESS AND EDUCATION CAM-
25 PAIGN.—The plan developed under subsection (a) shall

1 also require the Secretary to use the Senior Medicare Pa-
2 trols authorized under section 411 of the Older Americans
3 Act of 1965 (42 U.S.C. 3032) to conduct a public aware-
4 ness and education campaign to encourage participation
5 in the revised beneficiary incentive program under sub-
6 section (a).

7 (c) SUBMISSION OF PLAN.—Not later than 180 days
8 after the date of enactment of this Act, the Secretary shall
9 submit to Congress the plan developed under subsection
10 (a).

11 (d) DEFINITIONS.—In this section:

12 (1) MEDICARE BENEFICIARY.—The term
13 “Medicare beneficiary” means an individual entitled
14 to, or enrolled for, benefits under part A of title
15 XVIII of the Social Security Act (42 U.S.C. 1395c
16 et seq.) or enrolled for benefits under part B of such
17 title (42 U.S.C. 1395j et seq.).

18 (2) MEDICARE PROGRAM.—The term “Medicare
19 program” means the program under title XVIII of
20 the Social Security Act (42 U.S.C. 1395 et seq.).

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of Health and Human Services.

1 **SEC. 203. PROHIBITING THE DISPLAY OF SOCIAL SECURITY**
2 **ACCOUNT NUMBERS ON NEWLY ISSUED**
3 **MEDICARE IDENTIFICATION CARDS AND**
4 **COMMUNICATIONS PROVIDED TO MEDICARE**
5 **BENEFICIARIES.**

6 (a) IN GENERAL.—Not later than 2 years after the
7 date of enactment of this Act, the Secretary of Health and
8 Human Services, in consultation with the Commissioner
9 of Social Security, shall establish and begin to implement
10 procedures to eliminate the unnecessary collection, use,
11 and display of Social Security account numbers of Medi-
12 care beneficiaries.

13 (b) NEWLY ISSUED MEDICARE CARDS AND COMMU-
14 NICATIONS PROVIDED TO BENEFICIARIES.—

15 (1) NEWLY ISSUED CARDS.—

16 (A) IN GENERAL.—Not later than 4 years
17 after the date of enactment of this Act, the Sec-
18 retary of Health and Human Services, in con-
19 sultation with the Commissioner of Social Secu-
20 rity, shall ensure that each newly issued Medi-
21 care identification card meets the requirements
22 described in subparagraph (B).

23 (B) REQUIREMENTS.—

24 (i) IN GENERAL.—Subject to clauses
25 (ii) and (iii), the requirements described in
26 this subparagraph are, with respect to a

1 Medicare identification card, that the card
2 does not display or electronically store (in
3 an unencrypted format) a Medicare bene-
4 ficiary's Social Security account number.

5 (ii) EXCEPTION.—The Secretary may
6 waive the requirements under clause (i) in
7 the case where the health insurance claim
8 number of a beneficiary is the Social Secu-
9 rity number of the beneficiary, the bene-
10 ficiary's spouse, or another individual.

11 (iii) USE OF PARTIAL ACCOUNT NUM-
12 BER.—The Secretary of Health and
13 Human Services, in consultation with the
14 Commissioner of Social Security, may pro-
15 vide for the use of a partial Social Security
16 account number on a Medicare identifica-
17 tion card if the Secretary determines that
18 such use does not allow an unacceptable
19 risk of fraudulent use.

20 (2) COMMUNICATIONS PROVIDED TO BENE-
21 FICIARIES.—Not later than 4 years after the date of
22 enactment of this Act, the Secretary of Health and
23 Human Services shall prohibit the display of a Medi-
24 care beneficiary's Social Security account number on
25 written or electronic communication provided to the

1 beneficiary unless the Secretary, in consultation with
 2 the Commissioner of Social Security, determines
 3 that inclusion of Social Security account numbers on
 4 such communications is essential for the operation of
 5 the Medicare program.

6 (c) MEDICARE BENEFICIARY DEFINED.—In this sec-
 7 tion, the term “Medicare beneficiary” means an individual
 8 who is entitled to, or enrolled for, benefits under part A
 9 of title XVIII of the Social Security Act or enrolled under
 10 part B of such title.

11 (d) CONFORMING AMENDMENTS.—

12 (1) REFERENCE IN THE SOCIAL SECURITY
 13 ACT.—Section 205(c)(2)(C) of the Social Security
 14 Act (42 U.S.C. 405(e)(2)(C)) is amended—

15 (A) by moving clause (x), as added by sec-
 16 tion 1414(a)(2) of the Patient Protection and
 17 Affordable Care Act (Public Law 111–148), 6
 18 ems to the left;

19 (B) by redesignating clause (x), as added
 20 by section 2(a)(1) of the Social Security Num-
 21 ber Protection Act of 2010 (42 U.S.C. 1305
 22 note), as clause (xii); and

23 (C) by adding after clause (xii), as redesign-
 24 ated by subparagraph (B), the following new
 25 clause:

1 “(xiii) Subject to section 203 of the Medicare and
2 Medicaid Fighting Fraud and Abuse to Save Taxpayers’
3 Dollars Act, social security account numbers shall not be
4 displayed on Medicare identification cards or on commu-
5 nications provided to Medicare beneficiaries.”.

6 (2) ACCESS TO INFORMATION.—Section 205(r)
7 of the Social Security Act (405 U.S.C. 405(r)) is
8 amended by adding at the end the following new
9 paragraph:

10 “(10) To prevent and identify fraudulent activity, the
11 Commissioner shall upon the request of the Attorney Gen-
12 eral or upon the request of the Secretary of Health and
13 Human Services enter into a reimbursable agreement with
14 the Attorney General or the Secretary to provide informa-
15 tion collected under paragraph (1) if—

16 “(A) the requirements of subparagraphs (A)
17 and (B) of paragraph (3) are met; and

18 “(B) such agreement includes appropriate pro-
19 visions to protect the confidentiality of information
20 provided by the Commissioner under such agree-
21 ment.”.

22 (e) PILOT PROGRAM.—

23 (1) ESTABLISHMENT.—The Secretary shall es-
24 tablish a pilot program utilizing smart card tech-
25 nology to evaluate—

1 (A) the applicability of smart card tech-
2 nology to the Medicare program under title
3 XVIII of the Social Security Act (42 U.S.C.
4 1395 et seq.), including the applicability of such
5 technology to Medicare beneficiaries or Medi-
6 care providers; and

7 (B) whether such cards would be effective
8 in preventing fraud under the Medicare pro-
9 gram.

10 (2) IMPLEMENTATION.—

11 (A) INITIAL IMPLEMENTATION.—The Sec-
12 retary shall implement the pilot program under
13 this subsection not later than 1 year after the
14 date of enactment of this Act.

15 (B) SCOPE AND DURATION.—The Sec-
16 retary shall conduct the pilot program—

17 (i) in not less than 2 States; and

18 (ii) for a period of not less than 180
19 days or more than 2 years.

20 (3) REPORT.—Not later than 12 months after
21 the completion of the pilot program under this sub-
22 section, the Secretary shall submit to the appro-
23 priate committees of Congress and make available to
24 the public a report that includes the following:

1 (A) A summary of the pilot program and
2 findings, including—

3 (i) the costs or savings to the Medi-
4 care program as a result of the implemen-
5 tation of the pilot program;

6 (ii) whether the use of smart card
7 technology resulted in improvements in the
8 quality of care provided to Medicare bene-
9 ficiaries under the pilot program; and

10 (iii) whether such technology was use-
11 ful in preventing or detecting fraud, waste,
12 and abuse in the Medicare program.

13 (B) Recommendations regarding whether
14 the use of smart card technology should be ex-
15 panded under the Medicare program.

16 (4) DEFINITIONS.—In this subsection:

17 (A) MEDICARE BENEFICIARY.—The term
18 “Medicare beneficiary” means an individual en-
19 titled to, or enrolled for, benefits under part A
20 of title XVIII of the Social Security Act (42
21 U.S.C. 1395c et seq.) or enrolled for benefits
22 under part B of such title (42 U.S.C. 1395j et
23 seq.).

24 (B) MEDICARE PROVIDER.—The term
25 “Medicare provider” includes a provider of serv-

1 ices (as defined in section 1861(u) of the Social
2 Security Act (42 U.S.C. 1395x(u))) and a sup-
3 plier (as defined in section 1861(d) of such Act
4 (42 U.S.C. 1395x(d))).

5 (C) SECRETARY.—The term “Secretary”
6 means the Secretary of Health and Human
7 Services.

8 (D) SMART CARD.—The term “smart
9 card” means identification used by a Medicare
10 beneficiary or a Medicare provider that includes
11 anti-fraud attributes. Such a card—

12 (i) may rely on existing commercial
13 data transfer networks or on a network of
14 proprietary card readers or databases; and

15 (ii) may include—

16 (I) cards using technology adapt-
17 ed from the financial services indus-
18 try;

19 (II) cards containing individual
20 biometric identification, provided that
21 such identification is encrypted and
22 not contained in any central database;

23 (III) cards adapting technology
24 and processes utilized in the
25 TRICARE program under chapter 55

1 of title 10, United States Code, or by
2 the Veterans Administration; or
3 (IV) such other technology as the
4 Secretary determines appropriate.

5 **SEC. 204. REQUIRING PREPAYMENT REVIEW OF ALL**
6 **CLAIMS FOR DURABLE MEDICAL EQUIPMENT**
7 **AT HIGH RISK OF WASTE, FRAUD, AND**
8 **ABUSE.**

9 Section 1834(a) of the Social Security Act (42 U.S.C.
10 1395m(a)) is amended by adding at the end the following
11 new paragraph:

12 “(22) PREPAYMENT REVIEW FOR DURABLE
13 MEDICAL EQUIPMENT AT HIGH RISK OF FRAUD.—
14 Not later than 270 days after the date of enactment
15 of the Medicare and Medicaid Fighting Fraud and
16 Abuse to Save Taxpayers’ Dollars Act, the Sec-
17 retary, in consultation with the Inspector General of
18 the Department of Health and Human Services,
19 shall establish policies and procedures for prepay-
20 ment review, which may include pre-certification, for
21 all claims for reimbursement under this title for du-
22 rable medical equipment at high risk of waste,
23 fraud, and abuse, as determined by the Secretary,
24 including power wheelchairs.”.

1 **SEC. 205. STRENGTHENING MEDICAID PROGRAM INTEG-**
 2 **RITY THROUGH FLEXIBILITY.**

3 Section 1936 of the Social Security Act (42 U.S.C.
 4 1396u-6) is amended—

5 (1) in subsection (a), by inserting “, or other-
 6 wise,” after “entities”; and

7 (2) in subsection (e)—

8 (A) in paragraph (1), in the matter pre-
 9 ceding subparagraph (A), by inserting “(includ-
 10 ing the costs of equipment, salaries and bene-
 11 fits, and travel and training)” after “Program
 12 under this section”; and

13 (B) in paragraph (3), by striking “by 100”
 14 and inserting “by 100, or such number as de-
 15 termined necessary by the Secretary to carry
 16 out the Program,”.

17 **TITLE III—IMPROVING DATA**
 18 **SHARING ACROSS AGENCIES**
 19 **AND PROGRAMS**

20 **SEC. 301. IMPROVING DATA SHARING ACROSS AGENCIES**
 21 **AND PROGRAMS.**

22 (a) **IN GENERAL.**—In order to ensure that the Sec-
 23 retary, Medicare program safeguard contractors and other
 24 oversight contractors (as defined in subsection (g)(4)), the
 25 Inspector General of the Department of Health and
 26 Human Services, the Attorney General, and State and

1 local law enforcement are able to operate with greater co-
2 ordination to curb fraud and improper payments, the Sec-
3 retary, the Inspector General of the Department of Health
4 and Human Services, and the Attorney General shall pro-
5 vide for increased coordination and data sharing as de-
6 scribed in the succeeding subsections.

7 (b) IMPROVING DATA SHARING INTERNALLY AND
8 WITH CMS CONTRACTORS.—

9 (1) IN GENERAL.—The Secretary shall establish
10 policies and procedures to ensure that claims and
11 other data, including the data described in para-
12 graph (3), is accessible to Medicare program safe-
13 guard contractors and other oversight contractors
14 not less frequently than on a daily basis.

15 (2) ANALYSIS OF DATA.—The Secretary shall
16 require Medicare program safeguard contractors and
17 other oversight contractors to analyze the data
18 accessed under paragraph (1) on an ongoing basis
19 for purposes of conducting pre- and post-payment
20 reviews under the Medicare program.

21 (3) DATA DESCRIBED.—The following data is
22 described in this paragraph:

23 (A) Claims payment, claims denial, and
24 other claims data under the Medicare program

1 from the common working file and the Medicare
2 national claims history database.

3 (B) Data on providers of services and sup-
4 pliers under the Medicare program, including
5 data from the Medicare Provider Enrollment,
6 Chain, and Ownership System (PECOS) of the
7 Centers for Medicare & Medicaid Services.

8 (C) Medicare beneficiary data, including
9 data from the Enrollment DataBase of the Cen-
10 ters for Medicare & Medicaid Services.

11 (c) PROVIDER DATABASE REVIEWS AND
12 VERIFICATION.—

13 (1) IN GENERAL.—

14 (A) REVIEW AND UPDATE OF MEDICARE
15 PROVIDER DATABASES.—The Secretary shall
16 establish policies and procedures, which may in-
17 clude contractors, to review and update on a
18 daily basis Medicare provider databases, includ-
19 ing the review and update of the Medicare Pro-
20 vider Enrollment, Chain, and Ownership Sys-
21 tem (PECOS) of the Centers for Medicare &
22 Medicaid Services against death data of the So-
23 cial Security Administration, for accuracy and
24 completeness. Such policies and procedures
25 shall also include data matches on a daily basis,

1 as determined appropriate by the Secretary,
2 against other databases as determined appro-
3 priate by the Secretary, including the database
4 of the Drug Enforcement Agency of persons
5 registered to manufacture, distribute, or dis-
6 pense a controlled substance under part C of
7 title II of the Controlled Substances Act (21
8 U.S.C. 821 et seq.), State medical licensing
9 data, databases of suspended or debarred Fed-
10 eral contractors, including the Excluded Parties
11 List System of the General Services Adminis-
12 tration, the Debt Check program of the Depart-
13 ment of the Treasury, a list of incarcerated in-
14 dividuals from the Department of Justice and
15 each State's Department of Corrections, and
16 the List of Excluded Individuals/Entities of the
17 Office of Inspector General of the Department
18 of Health and Human Services.

19 (B) CONSULTATION.—The policies and
20 procedures under subparagraph (A) shall re-
21 quire the Secretary to periodically consult with
22 external organizations, including the Federation
23 of State Medical Boards, to determine data
24 sources and screening tools best suited to detect
25 fraudulent applications for enrollment under

1 section 1866(j) of the Social Security Act (42
2 U.S.C. 1395cc(j)) submitted by providers of
3 medical or other items or services and suppliers
4 under the Medicare program.

5 (C) DATA MATCHING.—

6 (i) IN GENERAL.—The policies and
7 procedures under subparagraph (A) may
8 include entering into agreements with the
9 Commissioner of Social Security pursuant
10 to section 205(r) of the Social Security Act
11 (42 U.S.C. 405(r)) to match data against
12 the death information maintained by the
13 Commissioner, and matching against the
14 database of the Drug Enforcement Agency
15 of persons registered to manufacture, dis-
16 tribute, or dispense a controlled substance
17 under part C of title II of the Controlled
18 Substances Act (21 U.S.C. 821 et seq.),
19 and other Federal databases, as deter-
20 mined appropriate by the Secretary.

21 (ii) CONFIDENTIALITY OF DATA OB-
22 TAINED.—The Secretary shall take any ac-
23 tions required by an agreement described
24 in clause (i) or any other agreement with
25 the Commissioner of Social Security to ob-

1 tain data from the Commissioner for pur-
2 poses of this section to maintain the con-
3 fidentiality of data obtained from the Com-
4 missioner and to assure that the data is
5 used solely for the purposes of this section.

6 (D) ONGOING ANALYSIS.—The Secretary
7 shall use analytic software for the conduct of
8 ongoing analysis of Medicare provider databases
9 described in subparagraph (A) to verify and up-
10 date data supplied by providers of services and
11 suppliers under the Medicare program. The
12 Secretary may use commercial database sources
13 for purposes of verifying such data.

14 (2) ACCESS TO NATIONAL DIRECTORY OF NEW
15 HIRES.—Section 453(j) of the Social Security Act
16 (42 U.S.C. 653(j)) is amended by adding at the end
17 the following new paragraph:

18 “(12) PROVISION OF NEW HIRE INFORMATION
19 TO THE CENTERS FOR MEDICARE & MEDICAID SERV-
20 ICES AND APPLICABLE STATE HEALTH SUBSIDY
21 PROGRAMS.—The National Directory of New Hires
22 shall provide the Administrator of the Centers for
23 Medicare & Medicaid Services and, for purposes of
24 carrying out section 1413(c)(3)(A)(ii) of Public Law
25 111–148, each applicable State health subsidy pro-

1 gram (as defined in section 1413(e) of such Public
2 Law) with all information in the National Direc-
3 tory.”

4 (3) ACCESS TO LIST OF CONVICTED INDIVID-
5 UALS.—The Attorney General shall provide the Sec-
6 retary of Health and Human Services access to a
7 list of convicted individuals for use in preventing
8 waste, fraud, and abuse under the Medicare and
9 Medicaid programs.

10 (d) BENEFICIARY DATABASE REVIEW AND
11 VERIFICATION.—

12 (1) IN GENERAL.—The Secretary shall establish
13 policies and procedures, which may include contrac-
14 tors, to review and update on a daily basis Medicare
15 beneficiary databases, including the Enrollment
16 DataBase of the Centers for Medicare & Medicaid
17 Services, for accuracy and completeness. Such poli-
18 cies and procedures shall include data matches
19 against death data of the Social Security Adminis-
20 tration and also on a daily basis, as determined ap-
21 propriate by the Secretary, other Federal databases
22 as determined appropriate by the Secretary, includ-
23 ing a list of incarcerated individuals from the De-
24 partment of Justice and each State’s Department of
25 Corrections.

1 (2) ONGOING ANALYSIS.—The Secretary shall
2 use analytic software for the conduct of ongoing
3 analysis of Medicare beneficiary databases described
4 in paragraph (1) to verify and update data supplied
5 by providers of services and suppliers under the
6 Medicare program. The Secretary may use commer-
7 cial database sources for purposes of verifying such
8 data.

9 (e) CONTINUED EFFORTS ON INTEGRATED DATA
10 REPOSITORY AND ONE PI PROJECT; EXPANDED ACCESS
11 BY AGENCIES.—

12 (1) CONTINUED EFFORTS ON INTEGRATED
13 DATA REPOSITORY AND ONE PI PROJECT.—

14 (A) IN GENERAL.—The Secretary shall—

15 (i) continue to incorporate Medicare
16 claims and payment, provider, and bene-
17 ficiary data into the Integrated Data Re-
18 pository under section 1128J(a)(1) of the
19 Social Security Act, as added by section
20 6402(a) of the Patient Protection and Af-
21 fordable Care Act; and

22 (ii) fully implement the waste, fraud,
23 and abuse detection solution of the Centers
24 for Medicare & Medicaid Services, called
25 the “One PI project”.

1 (B) UPDATING OF IDR ON DAILY BASIS.—

2 The Secretary shall establish policies and proce-
3 dures to ensure that the Integrated Data Re-
4 pository is updated with Medicare claims pay-
5 ment data and data from the Medicare provider
6 databases described in subsection (c)(1) and
7 Medicare beneficiary databases described in
8 subsection (d)(1), including the common work-
9 ing file, on a daily basis.

10 (C) ACCESS TO IDR.—The Secretary shall
11 ensure that Medicare program safeguard con-
12 tractors and other oversight contractors have
13 access to the full range of data contained in the
14 Integrated Data Repository and related analytic
15 tools by not later than September 30, 2012.
16 Such access shall include both real-time portal
17 access and other means in accordance with pro-
18 tocols established by the Secretary.

19 (D) LAW ENFORCEMENT ACCESS.—The
20 Secretary shall ensure that Federal and other
21 appropriate law enforcement agencies, including
22 the Inspector General of the Department of
23 Health and Human Services and the Attorney
24 General, have access to the full range of data
25 contained in the Integrated Data Repository

1 and related analytic tools by not later than Sep-
2 tember 30, 2012. Such access shall include both
3 real-time portal access and other means in ac-
4 cordance with protocols established by the Sec-
5 retary.

6 (E) DATE CERTAIN FOR INCLUSION OF
7 PREPAYMENT CLAIMS DATA.—The Secretary
8 shall ensure that the Integrated Data Reposi-
9 tory includes access to prepayment claims data
10 by not later than September 30, 2012.

11 (F) DATE CERTAIN FOR INCLUSION OF
12 MEDICAID PROGRAM DATA.—The Secretary
13 shall ensure that the Integrated Data Reposi-
14 tory includes access to or incorporates Medicaid
15 program data by not later than September 30,
16 2014 (or, if States are unable to provide certain
17 data to the Secretary by such date, a substan-
18 tial amount of the Medicaid program data that
19 is available as of such date).

20 (2) EXPANDED DATABASE ACCESS TO APPRO-
21 PRIATE STATE ENTITIES.—

22 (A) ACCESS TO INTEGRATED DATA REPOS-
23 ITORY.—For purposes of enhancing data shar-
24 ing in order to identify programmatic weak-
25 nesses and improving the timeliness of analysis

1 and actions to prevent waste, fraud, and abuse,
2 relevant State agencies, including the State
3 Medicaid plans under title XIX of the Social
4 Security Act, State child health plans under
5 title XXI of such Act, and State Medicaid fraud
6 control units (as described in section 1903(q) of
7 the Social Security Act (42 U.S.C. 1396b(q))),
8 shall have access to the full range of data con-
9 tained in the Integrated Data Repository, in-
10 cluding the One PI system established under
11 the One PI project, as directed by the Sec-
12 retary, by not later than September 30, 2013.
13 The Secretary may, in consultation with the In-
14 spector General of the Department of Health
15 and Human Services, give such access to State
16 attorneys general and State law enforcement
17 agencies.

18 (B) CONFORMING AMENDMENTS.—Section
19 1128J(a)(2) of the Social Security Act, as
20 added by section 6402(a) of the Patient Protec-
21 tion and Affordable Care Act (Public Law 111–
22 148) is amended—

23 (i) by striking “DATABASES.—”
24 and inserting “DATABASES.—”

1 “(A) ACCESS FOR THE CONDUCT OF LAW
2 ENFORCEMENT AND OVERSIGHT ACTIVITIES.—
3 For purposes”;

4 (ii) in subparagraph (A), as added by
5 subclause (I), by inserting “, including, in
6 accordance with section 301(e)(1)(D) of
7 the Medicare and Medicaid Fighting Fraud
8 and Abuse to Save Taxpayers’ Dollars Act,
9 the Integrated Data Repository under
10 paragraph (1)” before the period at the
11 end; and

12 (iii) by adding at the end the fol-
13 lowing new subparagraph:

14 “(B) ACCESS TO REDUCE WASTE, FRAUD,
15 AND ABUSE.—For purposes of reducing waste,
16 fraud, and abuse, and to the extent consistent
17 with applicable information, privacy, security,
18 and disclosure laws, including the regulations
19 promulgated under the Health Insurance Port-
20 ability and Accountability Act of 1996 and sec-
21 tion 552a of title 5, United States Code, and
22 subject to any information systems security re-
23 quirements under such laws or otherwise re-
24 quired by the Secretary, the Secretary, in con-
25 sultation with the Inspector General of the De-

1 partment of Health and Human Services, shall
2 allow appropriate State agency access to claims
3 and payment data of the Department of Health
4 and Human Services and its contractors related
5 to titles XVIII, XIX, and XXI, including, in ac-
6 cordance with section 301(e)(2)(A) of the Medi-
7 care and Medicaid Fighting Fraud and Abuse
8 to Save Taxpayers' Dollars Act, the Integrated
9 Data Repository under paragraph (1).”.

10 (f) GENERAL PROTOCOLS AND SECURITY.—

11 (1) IN GENERAL.—The Secretary shall ensure
12 that any data provided to an entity or individual
13 under the provisions of or amendments made by this
14 section is provided to such entity or individual in ac-
15 cordance with protocols established by the Secretary
16 under paragraph (2). The Secretary shall consult
17 with the Inspector General of the Department of
18 Health and Human Services prior to implementing
19 this subsection.

20 (2) PROTOCOLS.—

21 (A) IN GENERAL.—The Secretary shall es-
22 tablish protocols to ensure the secure transfer
23 and storage of any data provided to another en-
24 tity or individual under the provisions of or
25 amendments made by this section.

1 (B) CONSIDERATION OF RECOMMENDA-
2 TIONS OF THE INSPECTOR GENERAL OF THE
3 DEPARTMENT OF HEALTH AND HUMAN SERV-
4 ICES.—In establishing protocols under subpara-
5 graph (A), the Secretary shall take into account
6 recommendations submitted to the Secretary by
7 the Inspector General of the Department of
8 Health and Human Services with respect to the
9 secure transfer and storage of such data.

10 (g) DEFINITIONS.—In this section:

11 (1) FEDERAL HEALTH CARE PROGRAM.—The
12 term “Federal health care program” has the mean-
13 ing given such term in section 1128B(f) of the So-
14 cial Security Act (42 U.S.C. 1320a–7b(f)).

15 (2) MEDICAID PROGRAM.—The term “Medicaid
16 program” means the program under title XIX of the
17 Social Security Act (42 U.S.C. 1396 et seq.).

18 (3) MEDICARE PROGRAM.—The term “Medicare
19 program” means the program under title XVIII of
20 the Social Security Act (42 U.S.C. 1395 et seq.).

21 (4) MEDICARE PROGRAM SAFEGUARD CONTRAC-
22 TORS AND OTHER OVERSIGHT CONTRACTORS.—The
23 term “Medicare program safeguard contractors and
24 other oversight contractors” includes zone program
25 integrity contractors, program safeguard or integrity

1 contractors, recovery audit contractors under section
 2 1893(h) of the Social Security Act (42 U.S.C.
 3 1395ddd(h)), special investigative units at Medicare
 4 contractors (as defined in section 1889(g) of the So-
 5 cial Security Act (42 U.S.C. 1395zz(g))), and any
 6 other oversight contractors designated by the Sec-
 7 retary.

8 (5) PROVIDER OF SERVICES.—The term “pro-
 9 vider of services” has the meaning given such term
 10 in section 1861(u) of the Social Security Act (42
 11 U.S.C. 1395x(u)).

12 (6) SECRETARY.—The term “Secretary” means
 13 the Secretary of Health and Human Services.

14 (7) STATE.—The term “State” includes the
 15 District of Columbia, the Commonwealth of Puerto
 16 Rico, the Virgin Islands, Guam, and American
 17 Samoa.

18 (8) SUPPLIER.—The term “supplier” has the
 19 meaning given such term in section 1861(d) of the
 20 Social Security Act (42 U.S.C. 1395x(d)).

21 **SEC. 302. EXPANDING AUTOMATED PREPAYMENT REVIEW**
 22 **OF MEDICARE CLAIMS.**

23 (a) AUTOMATED PREPAYMENT REVIEW.—

24 (1) IN GENERAL.—Subject to subsection (b),
 25 the Secretary shall establish automated prepayment

1 review of all Medicare claims under parts A and B
2 of title XVIII of the Social Security Act (42 U.S.C.
3 1395 et seq.) by not later than September 30, 2012.

4 (2) IMPLEMENTATION.—The provisions of this
5 section shall be implemented in conjunction with,
6 and as part of, any predictive modeling and other
7 analytics technologies implemented under section
8 4241 of the Small Business Jobs Act of 2010 (42
9 U.S.C. 1320a–7n), except that any requirement
10 under such section 4241 that conflicts with a re-
11 quirement under this section shall not apply to this
12 section.

13 (b) ELEMENTS.—Such automated prepayment review
14 shall include the following:

15 (1) PROGRAM INTEGRITY SYSTEM.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (D), a program integrity system under
18 which relevant claims under such parts A and
19 B are compared in order to—

20 (i) identify errors or fraud under the
21 Medicare program, including—

22 (I) duplicate claims for items or
23 services; and

24 (II) claims where payment of
25 benefits under one such part is only

1 available if such payment is not avail-
2 able under another such part; and

3 (ii) obtain such other information or
4 conduct such other analysis as the Sec-
5 retary determines is useful for program in-
6 tegrity purposes.

7 (B) IMPLEMENTATION.—Not later than
8 September 30, 2013, the Secretary shall ensure
9 that all relevant daily claims data under such
10 parts A and B are compared as part of such
11 program integrity system.

12 (C) PLAN FOR INCLUSION OF PART D
13 CLAIMS DATA.—Not later than September 30,
14 2013, the Secretary shall establish a plan for
15 including Medicare claims under part D of such
16 title XVIII (42 U.S.C. 1395w–101 et seq.) for
17 use in comparisons under such program integ-
18 rity system.

19 (D) NO IMPACT ON PROMPT PAYMENT RE-
20 QUIREMENTS.—In no case shall the program in-
21 tegrity system under this paragraph have any
22 impact on prompt payment requirements under
23 such parts A and B, including such require-
24 ments under sections 1816(c)(2) and

1 1842(c)(2) of the Social Security Act (42
2 U.S.C. 1395h(e)(2); 1395u(e)(2)).

3 (2) AUTOMATED RISK-BASED PROVIDER
4 VERIFICATION.—

5 (A) IN GENERAL.—An automated risk-
6 based verification system for the purpose of
7 verification and analysis of providers of services
8 and suppliers under the Medicare program on
9 an ongoing basis, including during the period
10 between the enrollment of the provider of serv-
11 ices or supplier under section 1866(j) of the So-
12 cial Security Act (42 U.S.C. 1395cc(j)) and the
13 revalidation (or any subsequent revalidation) of
14 such provider of services or supplier under such
15 section. Subject to subparagraph (C), such sys-
16 tem shall include criminal background checks
17 for providers of services and suppliers who the
18 Secretary determines present a high risk of
19 waste, fraud, and abuse.

20 (B) IMPLEMENTATION.—The Secretary
21 shall establish the system under subparagraph
22 (A) not later than September 30, 2013.

23 (C) NO DUPLICATION OF SCREENING
24 UNDER ENROLLMENT PROCESS.—The system
25 under subparagraph (A) shall be in addition to

1 and shall not duplicate any screening, including
2 any criminal background check, conducted
3 under section 1866(j)(2) of the Social Security
4 Act (42 U.S.C. 1395cc(j)(2)).

5 (D) PROHIBITION ON DISCLOSURE OF
6 RISK-BASED DATA AND ANALYSIS.—The Sec-
7 retary shall not disclose to the public any data
8 collected or analysis conducted under the auto-
9 mated risk-based verification system under sub-
10 paragraph (A).

11 (3) TRACKING REJECTED CLAIMS.—

12 (A) IN GENERAL.—For the purpose of
13 identifying and analyzing potentially fraudulent
14 and otherwise inappropriate claims under the
15 Medicare program, a process for identifying and
16 tracking, including by provider of services or
17 supplier, claims for payment under the Medi-
18 care program that were rejected or denied
19 under the automated edit process of a medicare
20 administrative contractor under section 1874A
21 of the Social Security Act (42 U.S.C. 1395kk).

22 (B) IMPLEMENTATION.—The Secretary
23 shall establish the process under subparagraph
24 (A) not later than September 30, 2013.

25 (c) DEFINITIONS.—In this section:

1 (1) **MEDICARE PROGRAM.**—The term “Medicare
2 program” means the program under title XVIII of
3 the Social Security Act (42 U.S.C. 1395 et seq.).

4 (2) **AUTOMATED PREPAYMENT REVIEW.**—The
5 term “automated prepayment review” means screen-
6 ing using automated data analysis and intelligent
7 analysis prior to making payment. Such term does
8 not include prepayment medical review.

9 (3) **PROVIDER OF SERVICES.**—The term “pro-
10 vider of services” has the meaning given that term
11 in section 1861(u) of such Act (42 U.S.C.
12 1395ww(u)).

13 (4) **SECRETARY.**—The term “Secretary” means
14 the Secretary of Health and Human Services.

15 (5) **SUPPLIER.**—The term “supplier” has the
16 meaning given such term in section 1861(d) of such
17 Act (42 U.S.C. 1395ww(d)).

18 **SEC. 303. IMPROVING THE SHARING OF DATA BETWEEN**
19 **THE FEDERAL GOVERNMENT AND STATE**
20 **MEDICAID PROGRAMS.**

21 (a) **IN GENERAL.**—The Secretary of Health and
22 Human Services (in this section referred to as the “Sec-
23 retary”) shall establish a plan to encourage and facilitate
24 the inclusion of States in the Medicare-Medicaid Data
25 Match Program (commonly referred to as the “Medi-Medi

1 Program”) under section 1893(g) of the Social Security
2 Act (42 U.S.C. 1395ddd(g)).

3 (b) PROGRAM REVISIONS TO IMPROVE MEDI-MEDI
4 DATA MATCH PROGRAM PARTICIPATION BY STATES.—
5 Section 1893(g)(1)(A) of the Social Security Act (42
6 U.S.C. 1395ddd(g)(1)(A)) is amended—

7 (1) in the matter preceding clause (i), by insert-
8 ing “or otherwise” after “eligible entities”;

9 (2) in clause (i)—

10 (A) by inserting “to review claims data”
11 after “algorithms”; and

12 (B) by striking “service, time, or patient”
13 and inserting “provider, service, time, or pa-
14 tient”;

15 (3) in clause (ii)—

16 (A) by inserting “to investigate and re-
17 cover amounts with respect to suspect claims”
18 after “appropriate actions”; and

19 (B) by striking “; and” and inserting a
20 semicolon;

21 (4) in clause (iii), by striking the period and in-
22 serting “; and”; and

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

24 “(iv) furthering the Secretary’s de-
25 sign, development, installation, or enhance-

1 ment of an automated data system archi-
2 tecture—

3 “(I) to collect, integrate, and as-
4 sess data for purposes of program in-
5 tegrity, program oversight, and ad-
6 ministration, including the Medi-Medi
7 Program; and

8 “(II) that improves the coordina-
9 tion of requests for data from
10 States.”.

11 (c) PROVIDING STATES WITH DATA ON IMPROPER
12 PAYMENTS MADE FOR ITEMS OR SERVICES PROVIDED TO
13 DUAL ELIGIBLE INDIVIDUALS.—

14 (1) IN GENERAL.—The Secretary shall develop
15 and implement a plan that allows each State agency
16 responsible for administering a State plan for med-
17 ical assistance under title XIX of the Social Security
18 Act access to relevant data on improper or erroneous
19 payments made under the Medicare program under
20 title XVIII of the Social Security Act (42 U.S.C.
21 1395 et seq.) for health care items or services pro-
22 vided to dual eligible individuals.

23 (2) DUAL ELIGIBLE INDIVIDUAL DEFINED.—In
24 this section, the term “dual eligible individual”
25 means an individual who is entitled to, or enrolled

1 for, benefits under part A of title XVIII of the So-
2 cial Security Act (42 U.S.C. 1395c et seq.), or en-
3 rolled for benefits under part B of title XVIII of
4 such Act (42 U.S.C. 1395j et seq.), and is eligible
5 for medical assistance under a State plan under title
6 XIX of such Act (42 U.S.C. 1396 et seq.) or under
7 a waiver of such plan.

8 **SEC. 304. IMPROVING CLAIMS PROCESSING AND DETEC-**
9 **TION OF FRAUD WITHIN THE MEDICAID AND**
10 **CHIP PROGRAMS.**

11 (a) MEDICAID.—Section 1903(i) of the Social Secu-
12 rity Act (42 U.S.C. 1396b(i)), as amended by section
13 2001(a)(2)(B) of the Patient Protection and Affordable
14 Care Act (Public Law 111–148), is amended—

15 (1) in paragraph (25), by striking “or” at the
16 end;

17 (2) in paragraph (26), by striking the period
18 and inserting “; or”; and

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

21 “(27) with respect to amounts expended for an
22 item or service for which medical assistance is pro-
23 vided under the State plan or under a waiver of such
24 plan unless the claim for payment for such item or
25 service contains—

1 “(A) a valid beneficiary identification num-
 2 ber that, for purposes of the individual who re-
 3 ceived such item or service, has been deter-
 4 mined by the State agency to correspond to an
 5 individual who is eligible to receive benefits
 6 under the State plan or waiver; and

7 “(B) a valid provider identifier that, for
 8 purposes of the provider that furnished such
 9 item or service, has been determined by the
 10 State agency to correspond to a participating
 11 provider that is eligible to receive payment for
 12 furnishing such item or service under the State
 13 plan or waiver.”.

14 (b) CHIP.—Section 2107(e)(1)(I) of the Social Secu-
 15 rity Act (42 U.S.C. 1397gg(e)(1)(I)) is amended by strik-
 16 ing “and (17)” and inserting “(17), and (27)”.

17 **SEC. 305. REPORTS.**

18 (a) REPORT TO CONGRESS ON PLAN FOR IMPLEMEN-
 19 TATION.—

20 (1) REPORT.—

21 (A) IN GENERAL.—Not later than 270
 22 days after the date of enactment of this Act,
 23 the Secretary of Health and Human Services,
 24 in consultation with the Commissioner of Social
 25 Security and the Attorney General, shall submit

1 to Congress a report containing a plan for im-
2 plementing the provisions of and amendments
3 made by sections 301 through 304, including,
4 with respect to the implementation of section
5 303, the plan described in subparagraph (B).

6 (B) PLAN FOR INCREASING RECOVERY OF
7 OVERPAYMENTS.—The report submitted under
8 subparagraph (A) shall include a plan, devel-
9 oped by the Secretary of Health and Human
10 Services, in consultation with the inspector
11 General of the Department of Health and
12 Human Services, to increase the recovery of
13 overpayments for health care items or services
14 provided to dual eligible individuals (as defined
15 in section 303(c)(2)).

16 (2) INCLUSION IN ANNUAL HEALTH CARE
17 FRAUD AND ABUSE CONTROL ACCOUNT REPORT.—
18 Section 1817(k)(5) of the Social Security Act (42
19 U.S.C. 1395i(k)(5)) is amended—

20 (A) in subparagraph (A), by striking
21 “and” at the end;

22 (B) in subparagraph (B), by striking the
23 period at the end and inserting “; and”; and

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

1 “(C) effective beginning with the report
2 submitted January 1 following the date the re-
3 port under section 306(a)(1) of the Medicare
4 and Medicaid Fighting Fraud and Abuse to
5 Save Taxpayers’ Dollars Act is submitted, any
6 updates to the plan included in the report
7 under such section 306(a)(1), including any po-
8 tential challenges to meeting the deadlines for
9 implementation of the provisions of and amend-
10 ments made by sections 301 through 304 of
11 such Act.”.

12 (b) REPORT TO CONGRESS ON INTERAGENCY CO-
13 OPERATION AND DATA SHARING.—Not later than 180
14 days after the date of enactment of this Act, the Secretary
15 of Health and Human Services, in consultation with the
16 Administrator of the Veterans Administration, the Sec-
17 retary of Defense, the Director of the Office of Personnel
18 Management, and the head of any other relevant Federal
19 agency that administers a Federal health care program,
20 shall submit to Congress a report on the potential of data
21 sharing, including the sharing or data checking of Medi-
22 care provider and Medicare beneficiary databases, to pre-
23 vent and detect potential fraud and improper payments
24 under the Medicare program.

1 **TITLE IV—IMPROVING CMS**
 2 **CONTRACTOR PERFORMANCE**

3 **SEC. 401. ESTABLISHING MEDICARE ADMINISTRATIVE CON-**
 4 **TRACTOR ERROR REDUCTION INCENTIVES.**

5 (a) IN GENERAL.—Section 1874A(b)(1)(D) of the
 6 Social Security Act (42 U.S.C. 1395kk(b)(1)(D)) is
 7 amended—

8 (1) by striking “QUALITY.—The Secretary” and
 9 inserting “QUALITY.—

10 “(i) IN GENERAL.—Subject to clauses
 11 (ii) and (iii), the Secretary”; and

12 (2) by inserting after clause (i), as added by
 13 paragraph (1), the following new clauses:

14 “(ii) IMPROPER PAYMENT ERROR
 15 RATE REDUCTION INCENTIVE PLAN.—The
 16 Secretary shall establish a plan to provide
 17 incentives for medicare administrative con-
 18 tractors to reduce the improper payment
 19 error rates in their jurisdictions.

20 “(iii) CONTENTS OF PLAN.—The plan
 21 established under clause (ii)—

22 “(I) may include a sliding scale
 23 of bonus payments and additional in-
 24 centives to medicare administrative
 25 contractors that reduce the improper

1 payment error rates in their jurisdic-
 2 tions to certain benchmark levels; and

3 “(II) shall include penalties, in-
 4 cluding substantial reductions in
 5 award fee payments under award fee
 6 contracts, for any medicare adminis-
 7 trative contractor that reaches an
 8 upper end error threshold or other
 9 threshold as determined by the Sec-
 10 retary.”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to contracts entered into on or
 13 after the date that is 12 months after the date of enact-
 14 ment of this Act and to current contracts through modi-
 15 fication when practicable.

16 **SEC. 402. SEPARATING PROVIDER ENROLLMENT AND**
 17 **SCREENING FROM MEDICARE ADMINISTRA-**
 18 **TIVE CONTRACTORS.**

19 (a) IN GENERAL.—Section 1866(j)(1) of the Social
 20 Security Act (42 U.S.C. 1395cc(j)(1)) is amended by add-
 21 ing at the end the following new subparagraph:

22 “(D) IMPLEMENTATION.—The enrollment
 23 process established under subparagraph (A)
 24 and the provider screening under paragraph (2)
 25 shall be carried out under one or more con-

1 tracts with entities. Such contracts shall be sep-
2 arate from any contract to serve as a medicare
3 administrative contractor under section
4 1874A.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to contracts entered into on or
7 after the date that is 24 months after the date of enact-
8 ment of this Act and to current contracts through modi-
9 fication when practicable.

10 **SEC. 403. DEVELOPING MEASURABLE PERFORMANCE**
11 **METRICS FOR MEDICARE CONTRACTORS.**

12 (a) REPORT.—Not later than 12 months after the
13 date of enactment of this Act, the Secretary of Health and
14 Human Services (in this section referred to as the “Sec-
15 retary”) shall submit to Congress a report containing
16 measurable metrics for improving Medicare contractor
17 performance, including Medicare administrative contrac-
18 tors under section 1874A of the Social Security Act (42
19 U.S.C. 1395kk), program safeguard contractors and other
20 similar contractors, Medicare Drug Integrity Contractors,
21 qualified independent contractors with a contract under
22 section 1869(c) of the Social Security Act (42 U.S.C.
23 1395ff(c)), and other contractors that perform adminis-
24 trative or oversight functions under the Medicare program

1 under title XVIII of the Social Security Act (42 U.S.C.
2 1395 et seq.).

3 (b) CONTENTS OF REPORT.—The report submitted
4 under subsection (a) shall include the Secretary’s rec-
5 ommendations for the development of measurable per-
6 formance metrics for Medicare contractors (or updated
7 and revised measurable performance metrics), together
8 with recommendations for such legislation and administra-
9 tive action as the Secretary considers appropriate.

10 (c) RELATIONSHIP TO GOVERNMENT PERFORMANCE
11 AND RESULTS ACT.—The metrics submitted in the report
12 under subsection (a) may include performance goals or
13 performance indicators established under the provisions of
14 and amendments made by the GPRA Modernization Act
15 of 2010 (Public Law 111–352).

16 (d) REVIEW BY THE COMPTROLLER GENERAL.—Not
17 later than 270 days after the date on which the report
18 is submitted under subsection (a), the Comptroller Gen-
19 eral of the United States shall submit to Congress a report
20 containing a review of the report submitted under such
21 subsection.

1 **TITLE V—OTHER PROVISIONS**

2 **SEC. 501. STRENGTHENING PENALTIES FOR THE ILLEGAL**
3 **DISTRIBUTION OF A MEDICARE, MEDICAID,**
4 **OR CHIP BENEFICIARY IDENTIFICATION OR**
5 **BILLING PRIVILEGES.**

6 Section 1128B(b) of the Social Security Act (42
7 U.S.C. 1320a–7b(b)) is amended by adding at the end the
8 following:

9 “(4) Whoever knowingly, intentionally, and with
10 the intent to defraud purchases, sells or distributes,
11 or arranges for the purchase, sale, or distribution of
12 a Medicare, Medicaid, or CHIP beneficiary identi-
13 fication number or billing privileges under title
14 XVIII, title XIX, or title XXI, including a provider
15 identifier, shall be imprisoned for not more than 10
16 years or fined not more than \$500,000 (\$1,000,000
17 in the case of a corporation), or both.”.

18 **SEC. 502. PROVIDING IMPLEMENTATION FUNDING.**

19 (a) IN GENERAL.—For purposes of carrying out the
20 provisions of and amendments made by this Act, in addi-
21 tion to funds otherwise available, there are appropriated
22 to the Secretary of Health and Human Services for the
23 Centers for Medicare & Medicaid Services Program Man-
24 agement Account, from amounts in the general fund of
25 the Treasury not otherwise appropriated, \$75,000,000 for

1 the period of fiscal years 2012 through 2016. Amounts
2 appropriated under the preceding sentence shall remain
3 available until expended.

4 (b) REVISION TO THE MEDICARE IMPROVEMENT
5 FUND.—Section 1898(b)(1)(B) of the Social Security Act
6 (42 U.S.C. 1395iii(b)(1)(B)) is amended by striking
7 “\$275,000,000” and inserting “\$200,000,000”.

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