

112TH CONGRESS
1ST SESSION

S. 856

To amend title XI of the Social Security Act to make available to the public aggregate data on providers of services and suppliers under the Medicare program and to allow qualified individuals and groups access to claims and payment data under the Medicare program for purposes of conducting health research and detecting fraud.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2011

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XI of the Social Security Act to make available to the public aggregate data on providers of services and suppliers under the Medicare program and to allow qualified individuals and groups access to claims and payment data under the Medicare program for purposes of conducting health research and detecting fraud.

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.**

4 This Act may be cited as the “Medicare Spending
5 Transparency Act of 2011”.

1 **SEC. 2. PUBLIC AVAILABILITY OF AGGREGATE DATA ON**
2 **MEDICARE PROVIDERS OF SERVICES AND**
3 **SUPPLIERS.**

4 (a) **PURPOSE.**—The purpose of this section is to
5 make aggregate information about providers of services
6 and suppliers under the Medicare program under title
7 XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)
8 publicly available and to provide a new level of trans-
9 parency in such program.

10 (b) **PUBLIC AVAILABILITY.**—Section 1128J of the
11 Social Security Act (42 U.S.C. 1320a–7k) is amended by
12 adding at the end the following new subsection:

13 “(f) **PUBLIC AVAILABILITY OF CERTAIN MEDICARE**
14 **DATA.**—

15 “(1) **IN GENERAL.**—The Secretary shall, to the
16 extent consistent with applicable information, pri-
17 vacy, security, and disclosure laws, including the
18 regulations promulgated under the Health Insurance
19 Portability and Accountability Act of 1996 and sec-
20 tion 552a of title 5, United States Code, make avail-
21 able to the public on the Internet website of the
22 Centers for Medicare & Medicaid Services the fol-
23 lowing data with respect to title XVIII:

24 “(A) A complete list of the providers of
25 services and suppliers participating in the pro-
26 gram under such title, including the business

1 address of such providers of services and sup-
2 pliers.

3 “(B) Aggregate information about each
4 such provider of services and supplier, includ-
5 ing—

6 “(i) the total number of individuals
7 furnished items or services by the provider
8 of services or supplier for which payment
9 was made under such title during the pre-
10 ceding year;

11 “(ii) the number of unique patient en-
12 counters conducted by the provider of serv-
13 ices or supplier for which payment was
14 made under such title during the preceding
15 year;

16 “(iii) the average number of codes
17 billed under such title by the provider of
18 services of supplier per patient encounter
19 during the preceding year;

20 “(iv) the total amount paid to such
21 provider of services or supplier under such
22 title during the preceding year;

23 “(v) the top 50 billing codes on claims
24 paid under such title to the provider of
25 services or supplier during the preceding

1 year, as determined by volume, including a
 2 description of such codes;

3 “(vi) the top 50 billing codes on such
 4 claims paid during such year, as deter-
 5 mined by dollar amount, including a de-
 6 scription of such codes; and

7 “(vii) the top 50 diagnosis and proce-
 8 dure code pairs on such claims paid during
 9 such year, as determined by volume, in-
 10 cluding a description of such codes.

11 “(2) IMPLEMENTATION.—Not later than 1 year
 12 after the date of enactment of the Medicare Spend-
 13 ing Transparency Act of 2011, the Secretary shall
 14 promulgate regulations to carry out this sub-
 15 section.”.

16 **SEC. 3. ACCESS TO MEDICARE CLAIMS AND PAYMENT DATA**
 17 **BY QUALIFIED INDIVIDUALS AND GROUPS.**

18 (a) PURPOSE.—The purpose of this section is to allow
 19 qualified individuals and groups access to information on
 20 claims and payment data under the Medicare program for
 21 purposes of conducting health research and detecting
 22 fraud under such program.

23 (b) ACCESS TO MEDICARE CLAIMS AND PAYMENT
 24 DATA BY QUALIFIED INDIVIDUALS AND GROUPS.—Sec-
 25 tion 1128J of the Social Security Act (42 U.S.C. 1320a–

1 7k), as amended by section 2, is amended by adding at
2 the end the following new subsection:

3 “(g) ACCESS TO MEDICARE CLAIMS AND PAYMENT
4 DATA BY QUALIFIED INDIVIDUALS AND GROUPS.—

5 “(1) IN GENERAL.—For purposes of conducting
6 health research and detecting fraud under title
7 XVIII, and to the extent consistent with applicable
8 information, privacy, security, and disclosure laws,
9 including the regulations promulgated under the
10 Health Insurance Portability and Accountability Act
11 of 1996 and section 552a of title 5, United States
12 Code, and subject to any information systems secu-
13 rity requirements under such laws or otherwise re-
14 quired by the Secretary, a qualified individual or
15 group shall have access to claims and payment data
16 of the Department of Health and Human Services
17 and its contractors related to title XVIII. Notwith-
18 standing any other provision of law, such data shall
19 include the identity of individual providers of serv-
20 ices and suppliers under such title.

21 “(2) DEFINITION OF QUALIFIED INDIVIDUAL
22 OR GROUP.—

23 “(A) IN GENERAL.—In this subsection, the
24 term ‘qualified individual or group’ means an
25 individual or entity that the Secretary has de-

1 terminated, in accordance with subparagraph (B),
2 has relevant experience, knowledge, and tech-
3 nical expertise in medicine, statistics, health
4 care billing, practice patterns, health care fraud
5 detection, and analysis to use data provided to
6 the individual or the entity under this sub-
7 section in an appropriate, responsible, and eth-
8 ical manner and for the purposes described in
9 paragraph (1).

10 “(B) PROCEDURES.—The Secretary shall
11 establish procedures for determining, in a time-
12 ly manner, whether an individual or entity is a
13 qualified individual or group.

14 “(3) PROCEDURES.—The Secretary shall estab-
15 lish procedures for the storage and use of data pro-
16 vided to a qualified individual or group under this
17 subsection. Such procedures shall ensure that, in the
18 case where the qualified individual or group pub-
19 lishes an analysis of such data (or any analysis
20 using such data), the qualified individual or group
21 discloses the following information (in a form and
22 manner, and at a time, specified by the Secretary):

23 “(A) The name of the qualified individual
24 or group.

1 “(B) The sources of any funding for the
2 qualified individual or group.

3 “(C) Any employer or other relevant affili-
4 ations of the qualified individual or group.

5 “(D) The data analysis methods used by
6 the qualified individual or group in the analysis
7 involved.”.

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