

111TH CONGRESS
1ST SESSION

H. R. 27

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mrs. BIGGERT introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and the Judiciary, 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

A BILL

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Fraud Prevention and Enforcement Act of
6 2009”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Site inspections and background checks.
 Sec. 3. Registration of billing agencies.
 Sec. 4. Expanded access to the health integrity protection database (HIPDB).
 Sec. 5. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
 Sec. 6. Community mental health centers.
 Sec. 7. Limiting the use of discharge in bankruptcy proceedings for provider liability for health care fraud.
 Sec. 8. Illegal distribution of a medicare or medicaid beneficiary identification or provider number.
 Sec. 9. Treatment of certain Social Security Act crimes as Federal health care offenses.
 Sec. 10. Authority of Office of Inspector General of the Department of Health and Human Services.
 Sec. 11. Universal product numbers on claims forms for reimbursement under the medicare program.

1 **SEC. 2. SITE INSPECTIONS AND BACKGROUND CHECKS.**

2 (a) SITE INSPECTIONS FOR DME SUPPLIERS, COM-
 3 MUNITY MENTAL HEALTH CENTERS, AND OTHER PRO-
 4 VIDER GROUPS.—Title XVIII of the Social Security Act
 5 (42 U.S.C. 1395 et seq.) is amended by adding at the end
 6 the following:

7 “SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY
 8 MENTAL HEALTH CENTERS, AND OTHER PROVIDER
 9 GROUPS

10 “SEC. 1899. (a) SITE INSPECTIONS.—

11 “(1) IN GENERAL.—The Secretary shall con-
 12 duct a site inspection for each applicable provider
 13 (as defined in paragraph (2)) that applies for a pro-
 14 vider number in order to provide items or services
 15 under this title. Such site inspection shall be in addi-
 16 tion to any other site inspection that the Secretary

1 would otherwise conduct with regard to an applica-
2 ble provider.

3 “(2) APPLICABLE PROVIDER DEFINED.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), in this section the term ‘ap-
6 plicable provider’ means—

7 “(i) a supplier of durable medical
8 equipment (including items described in
9 section 1834(a)(13));

10 “(ii) a supplier of prosthetics,
11 orthotics, or supplies (including items de-
12 scribed in paragraphs (8) and (9) of sec-
13 tion 1861(s));

14 “(iii) a community mental health cen-
15 ter; or

16 “(iv) any other provider group, as de-
17 termined by the Secretary.

18 “(B) EXCEPTION.—In this section, the
19 term ‘applicable provider’ does not include—

20 “(i) a physician that provides durable
21 medical equipment (as described in sub-
22 paragraph (A)(i)) or prosthetics, orthotics,
23 or supplies (as described in subparagraph
24 (A)(ii)) to an individual as incident to an
25 office visit by such individual; or

1 “(ii) a hospital that provides durable
2 medical equipment (as described in sub-
3 paragraph (A)(i)) or prosthetics, orthotics,
4 or supplies (as described in subparagraph
5 (A)(ii)) to an individual as incident to an
6 emergency room visit by such individual.

7 “(b) STANDARDS AND REQUIREMENTS.—In con-
8 ducting the site inspection pursuant to subsection (a), the
9 Secretary shall ensure that the site being inspected is in
10 full compliance with all the conditions and standards of
11 participation and requirements for obtaining medicare bill-
12 ing privileges under this title.

13 “(c) TIME.—The Secretary shall conduct the site in-
14 spection for an applicable provider prior to the issuance
15 of a provider number to such provider.

16 “(d) TIMELY REVIEW.—The Secretary shall provide
17 for procedures to ensure that the site inspection required
18 under this section does not unreasonably delay the
19 issuance of a provider number to an applicable provider.”.

20 (b) BACKGROUND CHECKS.—Title XVIII of the So-
21 cial Security Act (42 U.S.C. 1395 et seq.) (as amended
22 by subsection (a)) is amended by adding at the end the
23 following:

24 “BACKGROUND CHECKS

25 “SEC. 1899A. (a) BACKGROUND CHECK RE-
26 QUIRED.—Except as provided in subsection (b), the Sec-

1 retary shall conduct a background check on any individual
2 or entity that applies to the Secretary for a provider num-
3 ber for the purpose of furnishing any item or service under
4 this title. In performing the background check, the Sec-
5 retary shall—

6 “(1) conduct the background check before
7 issuing a provider number to an individual or entity;

8 “(2) include a search of criminal records in the
9 background check; and

10 “(3) provide for procedures that ensure the
11 background check does not unreasonably delay the
12 issuance of a provider number to an eligible indi-
13 vidual or entity.

14 “(b) USE OF STATE LICENSING PROCEDURE.—The
15 Secretary may use the results of a State licensing proce-
16 dure as a background check under subsection (a) if the
17 State licensing procedure meets the requirements of sub-
18 section (a).

19 “(c) ATTORNEY GENERAL REQUIRED TO PROVIDE
20 INFORMATION.—

21 “(1) IN GENERAL.—Upon request of the Sec-
22 retary, the Attorney General shall provide the crimi-
23 nal background check information referred to in sub-
24 section (a)(2) to the Secretary.

1 “(2) RESTRICTION ON USE OF DISCLOSED IN-
2 FORMATION.—The Secretary may only use the infor-
3 mation disclosed under subsection (a) for the pur-
4 pose of carrying out the Secretary’s responsibilities
5 under this title.

6 “(d) REFUSAL TO ISSUE PROVIDER NUMBER.—

7 “(1) AUTHORITY.—In addition to any other
8 remedy available to the Secretary, the Secretary may
9 refuse to issue a provider number to an individual
10 or entity if the Secretary determines, after a back-
11 ground check conducted under this section, that
12 such individual or entity has a history of acts that
13 indicate issuance of a provider number to such indi-
14 vidual or entity would be detrimental to the best in-
15 terests of the program or program beneficiaries.
16 Such acts may include—

17 “(A) any bankruptcy;

18 “(B) any act resulting in a civil judgment
19 against such individual or entity; or

20 “(C) any felony conviction under Federal
21 or State law.

22 “(2) REPORTING OF REFUSAL TO ISSUE PRO-
23 VIDER NUMBER TO THE HEALTH INTEGRITY PRO-
24 TECTION DATABASE (HIPDB).—A determination to
25 refuse to issue a provider number to an individual

1 or entity as a result of a background check con-
2 ducted under this section shall be reported to the
3 health integrity protection database established
4 under section 1128E in accordance with the proce-
5 dures for reporting final adverse actions taken
6 against a health care provider, supplier, or practi-
7 tioner under that section.”.

8 (c) REGULATIONS; EFFECTIVE DATE.—

9 (1) REGULATIONS.—Not later than one year
10 after the date of the enactment of this Act, the Sec-
11 retary of Health and Human Services shall promul-
12 gate such regulations as are necessary to implement
13 the amendments made by subsections (a) and (b).

14 (2) EFFECTIVE DATE.—The amendments made
15 by subsections (a) and (b) shall apply to applications
16 for a provider number received by the Secretary of
17 Health and Human Services on or after the first day
18 of the first year beginning after the date of the en-
19 actment of this Act.

20 (d) USE OF MEDICARE INTEGRITY PROGRAM
21 FUNDS.—The Secretary of Health and Human Services
22 may use funds appropriated or transferred for purposes
23 of carrying out the medicare integrity program established
24 under section 1893 of the Social Security Act (42 U.S.C.

1 1395ddd) to carry out the provisions of sections 1899 and
2 1899A of that Act (as added by subsections (a) and (b)).

3 **SEC. 3. REGISTRATION OF BILLING AGENCIES.**

4 (a) REGISTRATION OF BILLING AGENCIES AND INDI-
5 VIDUALS.—Title XVIII of the Social Security Act (42
6 U.S.C. 1395 et seq.) (as amended by section 2(b)) is
7 amended by adding at the end the following:

8 “REGISTRATION OF BILLING AGENCIES AND INDIVIDUALS
9 “SEC. 1899B. (a) REGISTRATION.—The Secretary
10 shall establish procedures for the registration of all appli-
11 cable persons.

12 “(b) REQUIRED APPLICATION.—Each applicable per-
13 son shall submit a registration application to the Secretary
14 at such time, in such manner, and accompanied by such
15 information as the Secretary may require.

16 “(c) IDENTIFICATION NUMBER.—If the Secretary ap-
17 proves an application submitted under subsection (b), the
18 Secretary shall assign a unique identification number to
19 the applicable person.

20 “(d) REQUIREMENT.—Every claim for reimburse-
21 ment under this title that is compiled and submitted by
22 an applicable person shall contain the identification num-
23 ber that is assigned to the applicable person pursuant to
24 subsection (c).

25 “(e) TIMELY REVIEW.—The Secretary shall provide
26 for procedures that ensure the timely consideration and

1 determination regarding approval of applications under
2 this section.

3 “(f) DEFINITION OF APPLICABLE PERSON.—In this
4 section, the term ‘applicable person’ means an individual
5 or an entity that compiles and submits claims for reim-
6 bursement under this title to the Secretary on behalf of
7 any individual or entity.”.

8 (b) PERMISSIVE EXCLUSION.—Section 1128(b) of
9 the Social Security Act (42 U.S.C. 1320a–7(b)) is amend-
10 ed by adding at the end the following:

11 “(16) FRAUD BY APPLICABLE PERSON.—An ap-
12 plicable person (as defined in section 1899B(f)) that
13 the Secretary determines knowingly submitted or
14 caused to be submitted a claim for reimbursement
15 under title XVIII that the applicable person knows
16 or should know is false or fraudulent.”.

17 (c) REGULATIONS; EFFECTIVE DATE.—

18 (1) REGULATIONS.—Not later than one year
19 after the date of the enactment of this Act, the Sec-
20 retary of Health and Human Services shall promul-
21 gate such regulations as are necessary to implement
22 the amendments made by subsections (a) and (b).

23 (2) EFFECTIVE DATE.—The amendments made
24 by subsections (a) and (b) shall take effect on the

1 first day of the first year beginning after the date
2 of the enactment of this Act.

3 **SEC. 4. EXPANDED ACCESS TO THE HEALTH INTEGRITY**
4 **PROTECTION DATABASE (HIPDB).**

5 (a) IN GENERAL.—Section 1128E(d)(1) of the Social
6 Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended to
7 read as follows:

8 “(1) AVAILABILITY.—The information in the
9 database maintained under this section shall be
10 available to—

11 “(A) Federal and State government agen-
12 cies and health plans, and any health care pro-
13 vider, supplier, or practitioner entering an em-
14 ployment or contractual relationship with an in-
15 dividual or entity who could potentially be the
16 subject of a final adverse action, where the con-
17 tract involves the furnishing of items or services
18 reimbursed by one or more Federal health care
19 programs (regardless of whether the individual
20 or entity is paid by the programs directly, or
21 whether the items or services are reimbursed di-
22 rectly or indirectly through the claims of a di-
23 rect provider); and

24 “(B) utilization and quality control peer
25 review organizations and accreditation entities

1 as defined by the Secretary, including but not
2 limited to organizations described in part B of
3 this title and in section 1154(a)(4)(C).”.

4 (b) **CRIMINAL PENALTY FOR MISUSE OF INFORMA-**
5 **TION.**—Section 1128B(b) of the Social Security Act (42
6 U.S.C. 1320a–7b(b)) is amended by adding at the end the
7 following:

8 “(4) Whoever knowingly uses information maintained
9 in the health integrity protection database maintained in
10 accordance with section 1128E for a purpose other than
11 a purpose authorized under that section shall be impris-
12 oned for not more than three years or fined under title
13 18, United States Code, or both.”.

14 (c) **EFFECTIVE DATE.**—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act.

17 **SEC. 5. LIABILITY OF MEDICARE ADMINISTRATIVE CON-**
18 **TRACTORS FOR CLAIMS SUBMITTED BY EX-**
19 **CLUDED PROVIDERS.**

20 (a) **REIMBURSEMENT TO THE SECRETARY FOR**
21 **AMOUNTS PAID TO EXCLUDED PROVIDERS.**—Section
22 1874A(b) of the Social Security Act (42 U.S.C.
23 1395kk(b)) is amended by adding at the end the following
24 new paragraph:

1 “(6) REIMBURSEMENTS TO SECRETARY FOR
2 AMOUNTS PAID TO EXCLUDED PROVIDERS.—The
3 Secretary shall not enter into a contract with a
4 medicare administrative contractor under this sec-
5 tion unless the contractor agrees to reimburse the
6 Secretary for any amounts paid by the contractor
7 for a service under this title which is furnished by
8 an individual or entity during any period for which
9 the individual or entity is excluded, pursuant to sec-
10 tion 1128, 1128A, or 1156, from participation in the
11 health care program under this title if the amounts
12 are paid after the 60-day period beginning on the
13 date the Secretary provides notice of the exclusion to
14 the contractor, unless the payment was made as a
15 result of incorrect information provided by the Sec-
16 retary or the individual or entity excluded from par-
17 ticipation has concealed or altered their identity.”.

18 (b) CONFORMING REPEAL OF MANDATORY PAYMENT
19 RULE.—Section 1862(e) of the Social Security Act (42
20 U.S.C. 1395y(e)) is amended—

21 (1) in paragraph (1)(B), by striking “and when
22 the person” and all that follows through “person”;
23 and

24 (2) by amending paragraph (2) to read as fol-
25 lows:

1 “(2) No individual or entity may bill (or collect any
2 amount from) any individual for any item or service for
3 which payment is denied under paragraph (1). No indi-
4 vidual is liable for payment of any amounts billed for such
5 an item or service in violation of the preceding sentence.”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to claims for payment sub-
9 mitted on or after the date of enactment of this Act.

10 (2) CONTRACT MODIFICATION.—The Secretary
11 of Health and Human Services shall take such steps
12 as may be necessary to modify contracts entered
13 into, renewed, or extended prior to the date of enact-
14 ment of this Act to conform such contracts to the
15 provisions of this section.

16 **SEC. 6. COMMUNITY MENTAL HEALTH CENTERS.**

17 (a) IN GENERAL.—Section 1861(ff)(3)(B) of the So-
18 cial Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended
19 by striking “entity that—” and all that follows and insert-
20 ing the following: “entity that—

21 “(i) provides the community mental health serv-
22 ices specified in paragraph (1) of section 1913(c) of
23 the Public Health Service Act;

1 “(ii) meets applicable certification or licensing
2 requirements for community mental health centers
3 in the State in which it is located;

4 “(iii) provides a significant share of its services
5 to individuals who are not eligible for benefits under
6 this title; and

7 “(iv) meets such additional standards or re-
8 quirements for obtaining medicare billing privileges
9 as the Secretary may specify to ensure—

10 “(I) the health and safety of beneficiaries
11 receiving such services; or

12 “(II) the furnishing of such services in an
13 effective and efficient manner.”.

14 (b) RESTRICTION.—Section 1861(ff)(3)(A) of such
15 Act (42 U.S.C. 1395x(ff)(3)(A)) is amended by inserting
16 “other than in an individual’s home or in an inpatient or
17 residential setting” before the period.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to items and services furnished on
20 or after the first day of the sixth month that begins after
21 the date of the enactment of this Act.

1 **SEC. 7. LIMITING THE DISCHARGE OF DEBTS IN BANK-**
2 **RUPTCY PROCEEDINGS IN CASES WHERE A**
3 **HEALTH CARE PROVIDER OR A SUPPLIER EN-**
4 **GAGES IN FRAUDULENT ACTIVITY.**

5 (a) IN GENERAL.—

6 (1) CIVIL MONETARY PENALTIES.—Section
7 1128A(a) of the Social Security Act (42 U.S.C.
8 1320a–7a(a)) is amended by adding at the end the
9 following: “Notwithstanding any other provision of
10 law, amounts made payable under this section are
11 not dischargeable under section 727, 944, 1141,
12 1228, or 1328 of title 11, United States Code, or
13 any other provision of such title.”.

14 (2) RECOVERY OF OVERPAYMENT TO PRO-
15 VIDERS OF SERVICES UNDER PART A OF MEDI-
16 CARE.—Section 1815(d) of the Social Security Act
17 (42 U.S.C. 1395g(d)) is amended—

18 (A) by inserting “(1)” after “(d)”; and

19 (B) by adding at the end the following:

20 “(2) Notwithstanding any other provision of law,
21 amounts due to the Secretary under this section are not
22 dischargeable under section 727, 944, 1141, 1228, or
23 1328 of title 11, United States Code, or any other provi-
24 sion of such title if the overpayment was the result of
25 fraudulent activity, as may be defined by the Secretary.”.

1 (3) RECOVERY OF OVERPAYMENT OF BENEFITS
2 UNDER PART b OF MEDICARE.—Section 1833(j) of
3 the Social Security Act (42 U.S.C. 1395l(j)) is
4 amended—

5 (A) by inserting “(1)” after “(j)”; and

6 (B) by adding at the end the following:

7 “(2) Notwithstanding any other provision of law,
8 amounts due to the Secretary under this section are not
9 dischargeable under section 727, 944, 1141, 1228, or
10 1328 of title 11, United States Code, or any other provi-
11 sion of such title if the overpayment was the result of
12 fraudulent activity, as may be defined by the Secretary.”.

13 (4) COLLECTION OF PAST-DUE OBLIGATIONS
14 ARISING FROM BREACH OF SCHOLARSHIP AND LOAN
15 CONTRACT.—Section 1892(a) of the Social Security
16 Act (42 U.S.C. 1395ccc(a)) is amended by adding at
17 the end the following:

18 “(5) Notwithstanding any other provision of
19 law, amounts due to the Secretary under this section
20 are not dischargeable under section 727, 944, 1141,
21 1228, or 1328 of title 11, United States Code, or
22 any other provision of such title.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall apply to bankruptcy petitions filed
25 after the date of the enactment of this Act.

1 **SEC. 8. ILLEGAL DISTRIBUTION OF A MEDICARE OR MED-**
2 **ICAID BENEFICIARY IDENTIFICATION OR**
3 **PROVIDER NUMBER.**

4 Section 1128B(b) of the Social Security Act (42
5 U.S.C. 1320a–7b(b)), as amended by section 4(b), is
6 amended by adding at the end the following:

7 “(5) Whoever knowingly, intentionally, and with the
8 intent to defraud purchases, sells or distributes, or ar-
9 ranges for the purchase, sale, or distribution of two or
10 more medicare or medicaid beneficiary identification num-
11 bers or provider numbers shall be imprisoned for not more
12 than three years or fined under title 18, United States
13 Code (or, if greater, an amount equal to the monetary loss
14 to the Federal and any State government as a result of
15 such acts), or both.”.

16 **SEC. 9. TREATMENT OF CERTAIN SOCIAL SECURITY ACT**
17 **CRIMES AS FEDERAL HEALTH CARE OF-**
18 **FENSES.**

19 (a) IN GENERAL.—Section 24(a) of title 18, United
20 States Code, is amended—

21 (1) by striking the period at the end of para-
22 graph (2) and inserting “; or”; and

23 (2) by adding at the end the following:

24 “(3) section 1128B of the Social Security Act
25 (42 U.S.C. 1320a–7b).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on the date of the enact-
3 ment of this Act and apply to acts committed on or after
4 the date of the enactment of this Act.

5 **SEC. 10. AUTHORITY OF OFFICE OF INSPECTOR GENERAL**
6 **OF THE DEPARTMENT OF HEALTH AND**
7 **HUMAN SERVICES.**

8 (a) AUTHORITY.—Notwithstanding any other provi-
9 sion of law, upon designation by the Inspector General of
10 the Department of Health and Human Services, any
11 criminal investigator of the Office of Inspector General of
12 such department may, in accordance with guidelines
13 issued by the Secretary of Health and Human Services
14 and approved by the Attorney General, while engaged in
15 activities within the lawful jurisdiction of such Inspector
16 General—

17 (1) obtain and execute any warrant or other
18 process issued under the authority of the United
19 States;

20 (2) make an arrest without a warrant for—

21 (A) any offense against the United States
22 committed in the presence of such investigator;

23 or

24 (B) any felony offense against the United
25 States, if such investigator has reasonable cause

1 to believe that the person to be arrested has
2 committed or is committing that felony offense;
3 and

4 (3) exercise any other authority necessary to
5 carry out the authority described in paragraphs (1)
6 and (2).

7 (b) FUNDS.—The Office of Inspector General of the
8 Department of Health and Human Services may receive
9 and expend funds that represent the equitable share from
10 the forfeiture of property in investigations in which the
11 Office of Inspector General participated, and that are
12 transferred to the Office of Inspector General by the De-
13 partment of Justice, the Department of the Treasury, or
14 the United States Postal Service. Such equitable sharing
15 funds shall be deposited in a separate account and shall
16 remain available until expended.

17 **SEC. 11. UNIVERSAL PRODUCT NUMBERS ON CLAIMS**
18 **FORMS FOR REIMBURSEMENT UNDER THE**
19 **MEDICARE PROGRAM.**

20 (a) UPNS ON CLAIMS FORMS FOR REIMBURSEMENT
21 UNDER THE MEDICARE PROGRAM.—

22 (1) ACCOMMODATION OF UPNS ON MEDICARE
23 CLAIMS FORMS.—Not later than July 1, 2010, all
24 claims forms developed or used by the Secretary of
25 Health and Human Services for reimbursement

1 under the medicare program under title XVIII of the
2 Social Security Act (42 U.S.C. 1395 et seq.) shall
3 accommodate the use of universal product numbers
4 for a UPN covered item.

5 (2) REQUIREMENT FOR PAYMENT OF CLAIMS.—
6 Title XVIII of the Social Security Act (42 U.S.C.
7 1395 et seq.), as amended by sections 2(b) and 3(a),
8 is amended by adding at the end the following:

9 “USE OF UNIVERSAL PRODUCT NUMBERS
10 “SEC. 1899C. (a) IN GENERAL.—No payment shall
11 be made under this title for any claim for reimbursement
12 for any UPN covered item unless the claim contains the
13 universal product number of the UPN covered item.

14 “(b) DEFINITIONS.—In this section:

15 “(1) UPN COVERED ITEM.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the term ‘UPN covered
18 item’ means—

19 “(i) a covered item as that term is de-
20 fined in section 1834(a)(13);

21 “(ii) an item described in paragraph
22 (8) or (9) of section 1861(s);

23 “(iii) an item described in paragraph
24 (5) of section 1861(s); and

1 “(iv) any other item for which pay-
2 ment is made under this title that the Sec-
3 retary determines to be appropriate.

4 “(B) EXCLUSION.—The term ‘UPN cov-
5 ered item’ does not include a customized item
6 for which payment is made under this title.

7 “(2) UNIVERSAL PRODUCT NUMBER.—The
8 term ‘universal product number’ means a number
9 that is—

10 “(A) affixed by the manufacturer to each
11 individual UPN covered item that uniquely
12 identifies the item at each packaging level; and

13 “(B) based on commercially acceptable
14 identification standards such as, but not limited
15 to, standards established by the Uniform Code
16 Council-International Article Numbering Sys-
17 tem or the Health Industry Business Commu-
18 nication Council.”.

19 (3) DEVELOPMENT AND IMPLEMENTATION OF
20 PROCEDURES.—

21 (A) INFORMATION INCLUDED IN UPN.—
22 The Secretary of Health and Human Services,
23 in consultation with manufacturers and entities
24 with appropriate expertise, shall determine the
25 relevant descriptive information appropriate for

1 inclusion in a universal product number for a
2 UPN covered item.

3 (B) REVIEW OF PROCEDURE.—From the
4 information obtained by the use of universal
5 product numbers on claims for reimbursement
6 under the medicare program, the Secretary of
7 Health and Human Services, in consultation
8 with interested parties, shall periodically review
9 the UPN covered items billed under the Health
10 Care Financing Administration Common Proce-
11 dure Coding System and adjust such coding
12 system to ensure that functionally equivalent
13 UPN covered items are billed and reimbursed
14 under the same codes.

15 (4) EFFECTIVE DATE.—The amendment made
16 by paragraph (2) shall apply to claims for reim-
17 bursment submitted on and after July 1, 2010.

18 (b) STUDY AND REPORTS TO CONGRESS.—

19 (1) STUDY.—The Secretary of Health and
20 Human Services shall conduct a study on the results
21 of the implementation of the provisions in paragraph
22 (1) and (3) of subsection (a) and the amendment to
23 the Social Security Act in paragraph (2) of that sub-
24 section.

25 (2) REPORTS.—

1 (A) PROGRESS REPORT.—Not later than
2 six months after the date of the enactment of
3 this Act, the Secretary of Health and Human
4 Services shall submit to Congress a report that
5 contains a detailed description of the progress
6 of the matters studied pursuant to paragraph
7 (1).

8 (B) IMPLEMENTATION.—Not later than 18
9 months after the date of the enactment of this
10 Act, and annually thereafter for three years, the
11 Secretary of Health and Human Services shall
12 submit to Congress a report that contains a de-
13 tailed description of the results of the study
14 conducted pursuant to paragraph (1), together
15 with the Secretary’s recommendations regard-
16 ing the use of universal product numbers and
17 the use of data obtained from the use of such
18 numbers.

19 (c) DEFINITIONS.—In this section:

20 (1) UPN COVERED ITEM.—The term “UPN
21 covered item” has the meaning given such term in
22 section 1899C(b)(1) of the Social Security Act (as
23 added by subsection (a)(2)).

24 (2) UNIVERSAL PRODUCT NUMBER.—The term
25 “universal product number” has the meaning given

1 such term in section 1899C(b)(2) of the Social Secu-
2 rity Act (as added by subsection (a)(2)).

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary for the purpose of carrying out the provisions
6 in paragraphs (1) and (3) of subsection (a), subsection
7 (b), and section 1899C of the Social Security Act (as
8 added by subsection (a)(2)).

○