

1 option to execute such a document, are met;
2 and”.

3 (d) *EFFECTIVE DATE.*—The amendments made by this
4 section take effect on October 1, 2010.

5 **TITLE III—IMPROVING THE**
6 **QUALITY AND EFFICIENCY OF**
7 **HEALTH CARE**

8 **Subtitle A—Transforming the**
9 **Health Care Delivery System**

10 **PART I—LINKING PAYMENT TO QUALITY**
11 **OUTCOMES UNDER THE MEDICARE PROGRAM**

12 **SEC. 3001. HOSPITAL VALUE-BASED PURCHASING PRO-**
13 **GRAM.**

14 (a) *PROGRAM.*—

15 (1) *IN GENERAL.*—Section 1886 of the Social Se-
16 curity Act (42 U.S.C. 1395ww), as amended by sec-
17 tion 4102(a) of the HITECH Act (Public Law 111-
18 5), is amended by adding at the end the following
19 new subsection:

20 “(o) *HOSPITAL VALUE-BASED PURCHASING PRO-*
21 *GRAM.*—

22 “(1) *ESTABLISHMENT.*—

23 “(A) *IN GENERAL.*—Subject to the suc-
24 ceeding provisions of this subsection, the Sec-
25 retary shall establish a hospital value-based pur-

1 *chasing program (in this subsection referred to*
2 *as the ‘Program’) under which value-based in-*
3 *centive payments are made in a fiscal year to*
4 *hospitals that meet the performance standards*
5 *under paragraph (3) for the performance period*
6 *for such fiscal year (as established under para-*
7 *graph (4)).*

8 *“(B) PROGRAM TO BEGIN IN FISCAL YEAR*
9 *2013.—The Program shall apply to payments for*
10 *discharges occurring on or after October 1, 2012.*

11 *“(C) APPLICABILITY OF PROGRAM TO HOS-*
12 *PITALS.—*

13 *“(i) IN GENERAL.—For purposes of*
14 *this subsection, subject to clause (ii), the*
15 *term ‘hospital’ means a subsection (d) hos-*
16 *pital (as defined in subsection (d)(1)(B)).*

17 *“(ii) EXCLUSIONS.—The term ‘hos-*
18 *pital’ shall not include, with respect to a*
19 *fiscal year, a hospital—*

20 *“(I) that is subject to the payment*
21 *reduction under subsection*
22 *(b)(3)(B)(viii)(I) for such fiscal year;*

23 *“(II) for which, during the per-*
24 *formance period for such fiscal year,*
25 *the Secretary has cited deficiencies that*

1 *pose immediate jeopardy to the health*
2 *or safety of patients;*

3 *“(III) for which there are not a*
4 *minimum number (as determined by*
5 *the Secretary) of measures that apply*
6 *to the hospital for the performance pe-*
7 *riod for such fiscal year; or*

8 *“(IV) for which there are not a*
9 *minimum number (as determined by*
10 *the Secretary) of cases for the measures*
11 *that apply to the hospital for the per-*
12 *formance period for such fiscal year.*

13 *“(iii) INDEPENDENT ANALYSIS.—For*
14 *purposes of determining the minimum*
15 *numbers under subclauses (III) and (IV) of*
16 *clause (ii), the Secretary shall have con-*
17 *ducted an independent analysis of what*
18 *numbers are appropriate.*

19 *“(iv) EXEMPTION.—In the case of a*
20 *hospital that is paid under section*
21 *1814(b)(3), the Secretary may exempt such*
22 *hospital from the application of this sub-*
23 *section if the State which is paid under*
24 *such section submits an annual report to*
25 *the Secretary describing how a similar pro-*

1 *gram in the State for a participating hos-*
2 *pital or hospitals achieves or surpasses the*
3 *measured results in terms of patient health*
4 *outcomes and cost savings established under*
5 *this subsection.*

6 “(2) *MEASURES.—*

7 “(A) *IN GENERAL.—The Secretary shall se-*
8 *lect measures for purposes of the Program. Such*
9 *measures shall be selected from the measures*
10 *specified under subsection (b)(3)(B)(viii).*

11 “(B) *REQUIREMENTS.—*

12 “(i) *FOR FISCAL YEAR 2013.—For*
13 *value-based incentive payments made with*
14 *respect to discharges occurring during fiscal*
15 *year 2013, the Secretary shall ensure the*
16 *following:*

17 “(I) *CONDITIONS OR PROCE-*
18 *DURES.—Measures are selected under*
19 *subparagraph (A) that cover at least*
20 *the following 5 specific conditions or*
21 *procedures:*

22 “(aa) *Acute myocardial in-*
23 *farction (AMI).*

24 “(bb) *Heart failure.*

25 “(cc) *Pneumonia.*

1 “(dd) Surgeries, as measured
2 by the Surgical Care Improve-
3 ment Project (formerly referred to
4 as ‘Surgical Infection Prevention’
5 for discharges occurring before
6 July 2006).

7 “(ee) Healthcare-associated
8 infections, as measured by the
9 prevention metrics and targets es-
10 tablished in the HHS Action Plan
11 to Prevent Healthcare-Associated
12 Infections (or any successor plan)
13 of the Department of Health and
14 Human Services.

15 “(II) HCAHPS.—Measures se-
16 lected under subparagraph (A) shall be
17 related to the Hospital Consumer As-
18 sessment of Healthcare Providers and
19 Systems survey (HCAHPS).

20 “(ii) INCLUSION OF EFFICIENCY MEAS-
21 URES.—For value-based incentive payments
22 made with respect to discharges occurring
23 during fiscal year 2014 or a subsequent fis-
24 cal year, the Secretary shall ensure that
25 measures selected under subparagraph (A)

1 *include efficiency measures, including meas-*
2 *ures of ‘Medicare spending per beneficiary’.*
3 *Such measures shall be adjusted for factors*
4 *such as age, sex, race, severity of illness,*
5 *and other factors that the Secretary deter-*
6 *mines appropriate.*

7 “(C) *LIMITATIONS.—*

8 “(i) *TIME REQUIREMENT FOR PRIOR*
9 *REPORTING AND NOTICE.—The Secretary*
10 *may not select a measure under subpara-*
11 *graph (A) for use under the Program with*
12 *respect to a performance period for a fiscal*
13 *year (as established under paragraph (4))*
14 *unless such measure has been specified*
15 *under subsection (b)(3)(B)(viii) and in-*
16 *cluded on the Hospital Compare Internet*
17 *website for at least 1 year prior to the be-*
18 *ginning of such performance period.*

19 “(ii) *MEASURE NOT APPLICABLE UN-*
20 *LESS HOSPITAL FURNISHES SERVICES AP-*
21 *PROPRIATE TO THE MEASURE.—A measure*
22 *selected under subparagraph (A) shall not*
23 *apply to a hospital if such hospital does not*
24 *furnish services appropriate to such meas-*
25 *ure.*

1 “(D) *REPLACING MEASURES.*—Subclause
2 (VI) of subsection (b)(3)(B)(viii) shall apply to
3 measures selected under subparagraph (A) in the
4 same manner as such subclause applies to meas-
5 ures selected under such subsection.

6 “(3) *PERFORMANCE STANDARDS.*—

7 “(A) *ESTABLISHMENT.*—The Secretary shall
8 establish performance standards with respect to
9 measures selected under paragraph (2) for a per-
10 formance period for a fiscal year (as established
11 under paragraph (4)).

12 “(B) *ACHIEVEMENT AND IMPROVEMENT.*—
13 The performance standards established under
14 subparagraph (A) shall include levels of achieve-
15 ment and improvement.

16 “(C) *TIMING.*—The Secretary shall establish
17 and announce the performance standards under
18 subparagraph (A) not later than 60 days prior
19 to the beginning of the performance period for
20 the fiscal year involved.

21 “(D) *CONSIDERATIONS IN ESTABLISHING*
22 *STANDARDS.*—In establishing performance stand-
23 ards with respect to measures under this para-
24 graph, the Secretary shall take into account ap-
25 propriate factors, such as—

1 “(i) *practical experience with the*
2 *measures involved, including whether a sig-*
3 *nificant proportion of hospitals failed to*
4 *meet the performance standard during pre-*
5 *vious performance periods;*

6 “(ii) *historical performance standards;*

7 “(iii) *improvement rates; and*

8 “(iv) *the opportunity for continued im-*
9 *provement.*

10 “(4) *PERFORMANCE PERIOD.—For purposes of*
11 *the Program, the Secretary shall establish the per-*
12 *formance period for a fiscal year. Such performance*
13 *period shall begin and end prior to the beginning of*
14 *such fiscal year.*

15 “(5) *HOSPITAL PERFORMANCE SCORE.—*

16 “(A) *IN GENERAL.—Subject to subpara-*
17 *graph (B), the Secretary shall develop a method-*
18 *ology for assessing the total performance of each*
19 *hospital based on performance standards with*
20 *respect to the measures selected under paragraph*
21 *(2) for a performance period (as established*
22 *under paragraph (4)). Using such methodology,*
23 *the Secretary shall provide for an assessment (in*
24 *this subsection referred to as the ‘hospital per-*

1 *formance score’)* for each hospital for each per-
2 *formance period.*

3 “(B) *APPLICATION.*—

4 “(i) *APPROPRIATE DISTRIBUTION.*—

5 *The Secretary shall ensure that the applica-*
6 *tion of the methodology developed under*
7 *subparagraph (A) results in an appropriate*
8 *distribution of value-based incentive pay-*
9 *ments under paragraph (6) among hospitals*
10 *achieving different levels of hospital per-*
11 *formance scores, with hospitals achieving*
12 *the highest hospital performance scores re-*
13 *ceiving the largest value-based incentive*
14 *payments.*

15 “(ii) *HIGHER OF ACHIEVEMENT OR IM-*
16 *PROVEMENT.*—*The methodology developed*
17 *under subparagraph (A) shall provide that*
18 *the hospital performance score is determined*
19 *using the higher of its achievement or im-*
20 *provement score for each measure.*

21 “(iii) *WEIGHTS.*—*The methodology de-*
22 *veloped under subparagraph (A) shall pro-*
23 *vide for the assignment of weights for cat-*
24 *egories of measures as the Secretary deter-*
25 *mines appropriate.*

1 “(iv) *NO MINIMUM PERFORMANCE*
2 *STANDARD.—The Secretary shall not set a*
3 *minimum performance standard in deter-*
4 *mining the hospital performance score for*
5 *any hospital.*

6 “(v) *REFLECTION OF MEASURES AP-*
7 *PLICABLE TO THE HOSPITAL.—The hospital*
8 *performance score for a hospital shall reflect*
9 *the measures that apply to the hospital.*

10 “(6) *CALCULATION OF VALUE-BASED INCENTIVE*
11 *PAYMENTS.—*

12 “(A) *IN GENERAL.—In the case of a hos-*
13 *pital that the Secretary determines meets (or ex-*
14 *ceeds) the performance standards under para-*
15 *graph (3) for the performance period for a fiscal*
16 *year (as established under paragraph (4)), the*
17 *Secretary shall increase the base operating DRG*
18 *payment amount (as defined in paragraph*
19 *(7)(D)), as determined after application of para-*
20 *graph (7)(B)(i), for a hospital for each discharge*
21 *occurring in such fiscal year by the value-based*
22 *incentive payment amount.*

23 “(B) *VALUE-BASED INCENTIVE PAYMENT*
24 *AMOUNT.—The value-based incentive payment*

1 *amount for each discharge of a hospital in a fis-*
2 *cal year shall be equal to the product of—*

3 “(i) *the base operating DRG payment*
4 *amount (as defined in paragraph (7)(D))*
5 *for the discharge for the hospital for such*
6 *fiscal year; and*

7 “(ii) *the value-based incentive payment*
8 *percentage specified under subparagraph*
9 *(C) for the hospital for such fiscal year.*

10 “(C) *VALUE-BASED INCENTIVE PAYMENT*
11 *PERCENTAGE.—*

12 “(i) *IN GENERAL.—The Secretary shall*
13 *specify a value-based incentive payment*
14 *percentage for a hospital for a fiscal year.*

15 “(ii) *REQUIREMENTS.—In specifying*
16 *the value-based incentive payment percent-*
17 *age for each hospital for a fiscal year under*
18 *clause (i), the Secretary shall ensure that—*

19 “(I) *such percentage is based on*
20 *the hospital performance score of the*
21 *hospital under paragraph (5); and*

22 “(II) *the total amount of value-*
23 *based incentive payments under this*
24 *paragraph to all hospitals in such fis-*
25 *cal year is equal to the total amount*

1 *available for value-based incentive*
2 *payments for such fiscal year under*
3 *paragraph (7)(A), as estimated by the*
4 *Secretary.*

5 “(7) *FUNDING FOR VALUE-BASED INCENTIVE*
6 *PAYMENTS.—*

7 “(A) *AMOUNT.—The total amount available*
8 *for value-based incentive payments under para-*
9 *graph (6) for all hospitals for a fiscal year shall*
10 *be equal to the total amount of reduced payments*
11 *for all hospitals under subparagraph (B) for*
12 *such fiscal year, as estimated by the Secretary.*

13 “(B) *ADJUSTMENT TO PAYMENTS.—*

14 “(i) *IN GENERAL.—The Secretary shall*
15 *reduce the base operating DRG payment*
16 *amount (as defined in subparagraph (D))*
17 *for a hospital for each discharge in a fiscal*
18 *year (beginning with fiscal year 2013) by*
19 *an amount equal to the applicable percent*
20 *(as defined in subparagraph (C)) of the base*
21 *operating DRG payment amount for the*
22 *discharge for the hospital for such fiscal*
23 *year. The Secretary shall make such reduc-*
24 *tions for all hospitals in the fiscal year in-*
25 *volved, regardless of whether or not the hos-*

1 *pital has been determined by the Secretary*
2 *to have earned a value-based incentive pay-*
3 *ment under paragraph (6) for such fiscal*
4 *year.*

5 *“(ii) NO EFFECT ON OTHER PAY-*
6 *MENTS.—Payments described in items (aa)*
7 *and (bb) of subparagraph (D)(i)(II) for a*
8 *hospital shall be determined as if this sub-*
9 *section had not been enacted.*

10 *“(C) APPLICABLE PERCENT DEFINED.—For*
11 *purposes of subparagraph (B), the term ‘applica-*
12 *ble percent’ means—*

13 *“(i) with respect to fiscal year 2013,*
14 *1.0 percent;*

15 *“(ii) with respect to fiscal year 2014,*
16 *1.25 percent;*

17 *“(iii) with respect to fiscal year 2015,*
18 *1.5 percent;*

19 *“(iv) with respect to fiscal year 2016,*
20 *1.75 percent; and*

21 *“(v) with respect to fiscal year 2017*
22 *and succeeding fiscal years, 2 percent.*

23 *“(D) BASE OPERATING DRG PAYMENT*
24 *AMOUNT DEFINED.—*

1 “(i) *IN GENERAL.*—*Except as provided*
2 *in clause (ii), in this subsection, the term*
3 *‘base operating DRG payment amount’*
4 *means, with respect to a hospital for a fis-*
5 *cal year—*

6 “(I) *the payment amount that*
7 *would otherwise be made under sub-*
8 *section (d) (determined without regard*
9 *to subsection (q)) for a discharge if this*
10 *subsection did not apply; reduced by*

11 “(II) *any portion of such pay-*
12 *ment amount that is attributable to—*

13 “(aa) *payments under para-*
14 *graphs (5)(A), (5)(B), (5)(F), and*
15 *(12) of subsection (d); and*

16 “(bb) *such other payments*
17 *under subsection (d) determined*
18 *appropriate by the Secretary.*

19 “(ii) *SPECIAL RULES FOR CERTAIN*
20 *HOSPITALS.—*

21 “(I) *SOLE COMMUNITY HOSPITALS*
22 *AND MEDICARE-DEPENDENT, SMALL*
23 *RURAL HOSPITALS.—In the case of a*
24 *medicare-dependent, small rural hos-*
25 *pital (with respect to discharges occur-*

1 ring during fiscal year 2012 and 2013)
2 or a sole community hospital, in ap-
3 plying subparagraph (A)(i), the pay-
4 ment amount that would otherwise be
5 made under subsection (d) shall be de-
6 termined without regard to subpara-
7 graphs (I) and (L) of subsection (b)(3)
8 and subparagraphs (D) and (G) of
9 subsection (d)(5).

10 “(II) HOSPITALS PAID UNDER
11 SECTION 1814.—In the case of a hos-
12 pital that is paid under section
13 1814(b)(3), the term ‘base operating
14 DRG payment amount’ means the
15 payment amount under such section.

16 “(8) ANNOUNCEMENT OF NET RESULT OF AD-
17 JUSTMENTS.—Under the Program, the Secretary
18 shall, not later than 60 days prior to the fiscal year
19 involved, inform each hospital of the adjustments to
20 payments to the hospital for discharges occurring in
21 such fiscal year under paragraphs (6) and (7)(B)(i).

22 “(9) NO EFFECT IN SUBSEQUENT FISCAL
23 YEARS.—The value-based incentive payment under
24 paragraph (6) and the payment reduction under
25 paragraph (7)(B)(i) shall each apply only with re-

1 *spect to the fiscal year involved, and the Secretary*
2 *shall not take into account such value-based incentive*
3 *payment or payment reduction in making payments*
4 *to a hospital under this section in a subsequent fiscal*
5 *year.*

6 *“(10) PUBLIC REPORTING.—*

7 *“(A) HOSPITAL SPECIFIC INFORMATION.—*

8 *“(i) IN GENERAL.—The Secretary shall*
9 *make information available to the public re-*
10 *garding the performance of individual hos-*
11 *pitals under the Program, including—*

12 *“(I) the performance of the hos-*
13 *pital with respect to each measure that*
14 *applies to the hospital;*

15 *“(II) the performance of the hos-*
16 *pital with respect to each condition or*
17 *procedure; and*

18 *“(III) the hospital performance*
19 *score assessing the total performance of*
20 *the hospital.*

21 *“(ii) OPPORTUNITY TO REVIEW AND*
22 *SUBMIT CORRECTIONS.—The Secretary shall*
23 *ensure that a hospital has the opportunity*
24 *to review, and submit corrections for, the*
25 *information to be made public with respect*

1 to the hospital under clause (i) prior to
2 such information being made public.

3 “(iii) WEBSITE.—Such information
4 shall be posted on the Hospital Compare
5 Internet website in an easily understand-
6 able format.

7 “(B) AGGREGATE INFORMATION.—The Sec-
8 retary shall periodically post on the Hospital
9 Compare Internet website aggregate information
10 on the Program, including—

11 “(i) the number of hospitals receiving
12 value-based incentive payments under para-
13 graph (6) and the range and total amount
14 of such value-based incentive payments; and

15 “(ii) the number of hospitals receiving
16 less than the maximum value-based incen-
17 tive payment available to the hospital for
18 the fiscal year involved and the range and
19 amount of such payments.

20 “(11) IMPLEMENTATION.—

21 “(A) APPEALS.—The Secretary shall estab-
22 lish a process by which hospitals may appeal the
23 calculation of a hospital’s performance assess-
24 ment with respect to the performance standards
25 established under paragraph (3)(A) and the hos-

1 *pital performance score under paragraph (5).*
2 *The Secretary shall ensure that such process pro-*
3 *vides for resolution of such appeals in a timely*
4 *manner.*

5 *“(B) LIMITATION ON REVIEW.—Except as*
6 *provided in subparagraph (A), there shall be no*
7 *administrative or judicial review under section*
8 *1869, section 1878, or otherwise of the following:*

9 *“(i) The methodology used to determine*
10 *the amount of the value-based incentive*
11 *payment under paragraph (6) and the de-*
12 *termination of such amount.*

13 *“(ii) The determination of the amount*
14 *of funding available for such value-based in-*
15 *centive payments under paragraph (7)(A)*
16 *and the payment reduction under para-*
17 *graph (7)(B)(i).*

18 *“(iii) The establishment of the perform-*
19 *ance standards under paragraph (3) and*
20 *the performance period under paragraph*
21 *(4).*

22 *“(iv) The measures specified under*
23 *subsection (b)(3)(B)(viii) and the measures*
24 *selected under paragraph (2).*

1 “(v) *The methodology developed under*
2 *paragraph (5) that is used to calculate hos-*
3 *pital performance scores and the calculation*
4 *of such scores.*

5 “(vi) *The validation methodology spec-*
6 *ified in subsection (b)(3)(B)(viii)(XI).*

7 “(C) *CONSULTATION WITH SMALL HOS-*
8 *PITALS.—The Secretary shall consult with small*
9 *rural and urban hospitals on the application of*
10 *the Program to such hospitals.*

11 “(12) *PROMULGATION OF REGULATIONS.—The*
12 *Secretary shall promulgate regulations to carry out*
13 *the Program, including the selection of measures*
14 *under paragraph (2), the methodology developed*
15 *under paragraph (5) that is used to calculate hospital*
16 *performance scores, and the methodology used to de-*
17 *termine the amount of value-based incentive pay-*
18 *ments under paragraph (6).”.*

19 (2) *AMENDMENTS FOR REPORTING OF HOSPITAL*
20 *QUALITY INFORMATION.—Section 1886(b)(3)(B)(viii)*
21 *of the Social Security Act (42 U.S.C.*
22 *1395ww(b)(3)(B)(viii)) is amended—*

23 (A) *in subclause (II), by adding at the end*
24 *the following sentence: “The Secretary may re-*
25 *quire hospitals to submit data on measures that*

1 *are not used for the determination of value-based*
2 *incentive payments under subsection (o).”;*

3 *(B) in subclause (V), by striking “beginning*
4 *with fiscal year 2008” and inserting “for fiscal*
5 *years 2008 through 2012”;*

6 *(C) in subclause (VII), in the first sentence,*
7 *by striking “data submitted” and inserting “in-*
8 *formation regarding measures submitted”; and*

9 *(D) by adding at the end the following new*
10 *subclauses:*

11 *“(VIII) Effective for payments beginning with fiscal*
12 *year 2013, with respect to quality measures for outcomes*
13 *of care, the Secretary shall provide for such risk adjustment*
14 *as the Secretary determines to be appropriate to maintain*
15 *incentives for hospitals to treat patients with severe illnesses*
16 *or conditions.*

17 *“(IX)(aa) Subject to item (bb), effective for payments*
18 *beginning with fiscal year 2013, each measure specified by*
19 *the Secretary under this clause shall be endorsed by the enti-*
20 *ty with a contract under section 1890(a).*

21 *“(bb) In the case of a specified area or medical topic*
22 *determined appropriate by the Secretary for which a fea-*
23 *sible and practical measure has not been endorsed by the*
24 *entity with a contract under section 1890(a), the Secretary*
25 *may specify a measure that is not so endorsed as long as*

1 *due consideration is given to measures that have been en-*
2 *dorsed or adopted by a consensus organization identified*
3 *by the Secretary.*

4 “(X) *To the extent practicable, the Secretary shall,*
5 *with input from consensus organizations and other stake-*
6 *holders, take steps to ensure that the measures specified by*
7 *the Secretary under this clause are coordinated and aligned*
8 *with quality measures applicable to—*

9 “(aa) *physicians under section 1848(k); and*

10 “(bb) *other providers of services and suppliers*
11 *under this title.*

12 “(XI) *The Secretary shall establish a process to vali-*
13 *date measures specified under this clause as appropriate.*
14 *Such process shall include the auditing of a number of ran-*
15 *domly selected hospitals sufficient to ensure validity of the*
16 *reporting program under this clause as a whole and shall*
17 *provide a hospital with an opportunity to appeal the vali-*
18 *date of measures reported by such hospital.”.*

19 (3) WEBSITE IMPROVEMENTS.—*Section*
20 1886(b)(3)(B) *of the Social Security Act (42 U.S.C.*
21 1395ww(b)(3)(B)), *as amended by section 4102(b) of*
22 *the HITECH Act (Public Law 111–5), is amended by*
23 *adding at the end the following new clause:*

24 “(x)(I) *The Secretary shall develop standard Internet*
25 *website reports tailored to meet the needs of various stake-*

1 holders such as hospitals, patients, researchers, and policy-
2 makers. The Secretary shall seek input from such stake-
3 holders in determining the type of information that is useful
4 and the formats that best facilitate the use of the informa-
5 tion.

6 “(II) The Secretary shall modify the Hospital Com-
7 pare Internet website to make the use and navigation of
8 that website readily available to individuals accessing it.”.

9 (4) GAO STUDY AND REPORT.—

10 (A) STUDY.—The Comptroller General of
11 the United States shall conduct a study on the
12 performance of the hospital value-based pur-
13 chasing program established under section
14 1886(o) of the Social Security Act, as added by
15 paragraph (1). Such study shall include an
16 analysis of the impact of such program on—

17 (i) the quality of care furnished to
18 Medicare beneficiaries, including diverse
19 Medicare beneficiary populations (such as
20 diverse in terms of race, ethnicity, and so-
21 cioeconomic status);

22 (ii) expenditures under the Medicare
23 program, including any reduced expendi-
24 tures under Part A of title XVIII of such
25 Act that are attributable to the improve-

1 *ment in the delivery of inpatient hospital*
2 *services by reason of such hospital value-*
3 *based purchasing program;*

4 *(iii) the quality performance among*
5 *safety net hospitals and any barriers such*
6 *hospitals face in meeting the performance*
7 *standards applicable under such hospital*
8 *value-based purchasing program; and*

9 *(iv) the quality performance among*
10 *small rural and small urban hospitals and*
11 *any barriers such hospitals face in meeting*
12 *the performance standards applicable under*
13 *such hospital value-based purchasing pro-*
14 *gram.*

15 *(B) REPORTS.—*

16 *(i) INTERIM REPORT.—Not later than*
17 *October 1, 2015, the Comptroller General of*
18 *the United States shall submit to Congress*
19 *an interim report containing the results of*
20 *the study conducted under subparagraph*
21 *(A), together with recommendations for such*
22 *legislation and administrative action as the*
23 *Comptroller General determines appro-*
24 *priate.*

1 (ii) *FINAL REPORT.*—Not later than
2 July 1, 2017, the Comptroller General of the
3 United States shall submit to Congress a re-
4 port containing the results of the study con-
5 ducted under subparagraph (A), together
6 with recommendations for such legislation
7 and administrative action as the Comp-
8 troller General determines appropriate.

9 (5) *HHS STUDY AND REPORT.*—

10 (A) *STUDY.*—The Secretary of Health and
11 Human Services shall conduct a study on the
12 performance of the hospital value-based pur-
13 chasing program established under section
14 1886(o) of the Social Security Act, as added by
15 paragraph (1). Such study shall include an
16 analysis—

17 (i) of ways to improve the hospital
18 value-based purchasing program and ways
19 to address any unintended consequences
20 that may occur as a result of such program;

21 (ii) of whether the hospital value-based
22 purchasing program resulted in lower
23 spending under the Medicare program
24 under title XVIII of such Act or other fi-
25 nancial savings to hospitals;

1 (iii) the appropriateness of the Medi-
2 care program sharing in any savings gen-
3 erated through the hospital value-based pur-
4 chasing program; and

5 (iv) any other area determined appro-
6 priate by the Secretary.

7 (B) *REPORT.*—Not later than January 1,
8 2016, the Secretary of Health and Human Serv-
9 ices shall submit to Congress a report containing
10 the results of the study conducted under subpara-
11 graph (A), together with recommendations for
12 such legislation and administrative action as the
13 Secretary determines appropriate.

14 (b) *VALUE-BASED PURCHASING DEMONSTRATION*
15 *PROGRAMS.*—

16 (1) *VALUE-BASED PURCHASING DEMONSTRATION*
17 *PROGRAM FOR INPATIENT CRITICAL ACCESS HOS-*
18 *PITALS.*—

19 (A) *ESTABLISHMENT.*—

20 (i) *IN GENERAL.*—Not later than 2
21 years after the date of enactment of this Act,
22 the Secretary of Health and Human Serv-
23 ices (in this subsection referred to as the
24 “Secretary”) shall establish a demonstration
25 program under which the Secretary estab-

1 lishes a value-based purchasing program
2 under the Medicare program under title
3 XVIII of the Social Security Act for critical
4 access hospitals (as defined in paragraph
5 (1) of section 1861(mm) of such Act (42
6 U.S.C. 1395x(mm))) with respect to inpa-
7 tient critical access hospital services (as de-
8 fined in paragraph (2) of such section) in
9 order to test innovative methods of meas-
10 uring and rewarding quality and efficient
11 health care furnished by such hospitals.

12 (ii) *DURATION.*—The demonstration
13 program under this paragraph shall be con-
14 ducted for a 3-year period.

15 (iii) *SITES.*—The Secretary shall con-
16 duct the demonstration program under this
17 paragraph at an appropriate number (as
18 determined by the Secretary) of critical ac-
19 cess hospitals. The Secretary shall ensure
20 that such hospitals are representative of the
21 spectrum of such hospitals that participate
22 in the Medicare program.

23 (B) *WAIVER AUTHORITY.*—The Secretary
24 may waive such requirements of titles XI and
25 XVIII of the Social Security Act as may be nec-

1 *essary to carry out the demonstration program*
2 *under this paragraph.*

3 *(C) BUDGET NEUTRALITY REQUIREMENT.—*
4 *In conducting the demonstration program under*
5 *this section, the Secretary shall ensure that the*
6 *aggregate payments made by the Secretary do*
7 *not exceed the amount which the Secretary would*
8 *have paid if the demonstration program under*
9 *this section was not implemented.*

10 *(D) REPORT.—Not later than 18 months*
11 *after the completion of the demonstration pro-*
12 *gram under this paragraph, the Secretary shall*
13 *submit to Congress a report on the demonstra-*
14 *tion program together with—*

15 *(i) recommendations on the establish-*
16 *ment of a permanent value-based pur-*
17 *chasing program under the Medicare pro-*
18 *gram for critical access hospitals with re-*
19 *spect to inpatient critical access hospital*
20 *services; and*

21 *(ii) recommendations for such other*
22 *legislation and administrative action as the*
23 *Secretary determines appropriate.*

24 *(2) VALUE-BASED PURCHASING DEMONSTRATION*
25 *PROGRAM FOR HOSPITALS EXCLUDED FROM HOSPITAL*

1 VALUE-BASED PURCHASING PROGRAM AS A RESULT
2 OF INSUFFICIENT NUMBERS OF MEASURES AND
3 CASES.—

4 (A) ESTABLISHMENT.—

5 (i) IN GENERAL.—Not later than 2
6 years after the date of enactment of this Act,
7 the Secretary shall establish a demonstra-
8 tion program under which the Secretary es-
9 tablishes a value-based purchasing program
10 under the Medicare program under title
11 XVIII of the Social Security Act for appli-
12 cable hospitals (as defined in clause (ii))
13 with respect to inpatient hospital services
14 (as defined in section 1861(b) of the Social
15 Security Act (42 U.S.C. 1395x(b))) in order
16 to test innovative methods of measuring and
17 rewarding quality and efficient health care
18 furnished by such hospitals.

19 (ii) APPLICABLE HOSPITAL DE-
20 FINED.—For purposes of this paragraph,
21 the term “applicable hospital” means a hos-
22 pital described in subclause (III) or (IV) of
23 section 1886(o)(1)(C)(ii) of the Social Secu-
24 rity Act, as added by subsection (a)(1).

1 (iii) *DURATION.*—*The demonstration*
2 *program under this paragraph shall be con-*
3 *ducted for a 3-year period.*

4 (iv) *SITES.*—*The Secretary shall con-*
5 *duct the demonstration program under this*
6 *paragraph at an appropriate number (as*
7 *determined by the Secretary) of applicable*
8 *hospitals. The Secretary shall ensure that*
9 *such hospitals are representative of the spec-*
10 *trum of such hospitals that participate in*
11 *the Medicare program.*

12 (B) *WAIVER AUTHORITY.*—*The Secretary*
13 *may waive such requirements of titles XI and*
14 *XVIII of the Social Security Act as may be nec-*
15 *essary to carry out the demonstration program*
16 *under this paragraph.*

17 (C) *BUDGET NEUTRALITY REQUIREMENT.*—
18 *In conducting the demonstration program under*
19 *this section, the Secretary shall ensure that the*
20 *aggregate payments made by the Secretary do*
21 *not exceed the amount which the Secretary would*
22 *have paid if the demonstration program under*
23 *this section was not implemented.*

24 (D) *REPORT.*—*Not later than 18 months*
25 *after the completion of the demonstration pro-*

1 *gram under this paragraph, the Secretary shall*
2 *submit to Congress a report on the demonstra-*
3 *tion program together with—*

4 *(i) recommendations on the establish-*
5 *ment of a permanent value-based pur-*
6 *chasing program under the Medicare pro-*
7 *gram for applicable hospitals with respect*
8 *to inpatient hospital services; and*

9 *(ii) recommendations for such other*
10 *legislation and administrative action as the*
11 *Secretary determines appropriate.*

12 **SEC. 3002. IMPROVEMENTS TO THE PHYSICIAN QUALITY RE-**
13 **PORTING SYSTEM.**

14 *(a) EXTENSION.—Section 1848(m) of the Social Secu-*
15 *rity Act (42 U.S.C. 1395w-4(m)) is amended—*

16 *(1) in paragraph (1)—*

17 *(A) in subparagraph (A), in the matter pre-*
18 *ceding clause (i), by striking “2010” and insert-*
19 *ing “2014”; and*

20 *(B) in subparagraph (B)—*

21 *(i) in clause (i), by striking “and” at*
22 *the end;*

23 *(ii) in clause (ii), by striking the pe-*
24 *riod at the end and inserting a semicolon;*
25 *and*

1 (iii) by adding at the end the following
2 new clauses:

3 “(iii) for 2011, 1.0 percent; and

4 “(iv) for 2012, 2013, and 2014, 0.5
5 percent.”;

6 (2) in paragraph (3)—

7 (A) in subparagraph (A), in the matter pre-
8 ceding clause (i), by inserting “(or, for purposes
9 of subsection (a)(8), for the quality reporting pe-
10 riod for the year)” after “reporting period”; and

11 (B) in subparagraph (C)(i), by inserting “,
12 or, for purposes of subsection (a)(8), for a qual-
13 ity reporting period for the year” after “(a)(5),
14 for a reporting period for a year”;

15 (3) in paragraph (5)(E)(iv), by striking “sub-
16 section (a)(5)(A)” and inserting “paragraphs (5)(A)
17 and (8)(A) of subsection (a)”; and

18 (4) in paragraph (6)(C)—

19 (A) in clause (i)(II), by striking “, 2009,
20 2010, and 2011” and inserting “and subsequent
21 years”; and

22 (B) in clause (iii)—

23 (i) by inserting “(a)(8)” after “(a)(5)”;
24 and

1 (ii) by striking “under subparagraph
2 (D)(iii) of such subsection” and inserting
3 “under subsection (a)(5)(D)(iii) or the qual-
4 ity reporting period under subsection
5 (a)(8)(D)(iii), respectively”.

6 (b) *INCENTIVE PAYMENT ADJUSTMENT FOR QUALITY*
7 *REPORTING.*—Section 1848(a) of the Social Security Act
8 (42 U.S.C. 1395w–4(a)) is amended by adding at the end
9 the following new paragraph:

10 “(8) *INCENTIVES FOR QUALITY REPORTING.*—

11 “(A) *ADJUSTMENT.*—

12 “(i) *IN GENERAL.*—With respect to cov-
13 ered professional services furnished by an
14 eligible professional during 2015 or any
15 subsequent year, if the eligible professional
16 does not satisfactorily submit data on qual-
17 ity measures for covered professional serv-
18 ices for the quality reporting period for the
19 year (as determined under subsection
20 (m)(3)(A)), the fee schedule amount for such
21 services furnished by such professional dur-
22 ing the year (including the fee schedule
23 amount for purposes of determining a pay-
24 ment based on such amount) shall be equal
25 to the applicable percent of the fee schedule

1 *amount that would otherwise apply to such*
2 *services under this subsection (determined*
3 *after application of paragraphs (3), (5),*
4 *and (7), but without regard to this para-*
5 *graph).*

6 “(ii) *APPLICABLE PERCENT.*—*For pur-*
7 *poses of clause (i), the term ‘applicable per-*
8 *cent’ means—*

9 “(I) *for 2015, 98.5 percent; and*

10 “(II) *for 2016 and each subse-*
11 *quent year, 98 percent.*

12 “(B) *APPLICATION.*—

13 “(i) *PHYSICIAN REPORTING SYSTEM*
14 *RULES.*—*Paragraphs (5), (6), and (8) of*
15 *subsection (k) shall apply for purposes of*
16 *this paragraph in the same manner as they*
17 *apply for purposes of such subsection.*

18 “(ii) *INCENTIVE PAYMENT VALIDATION*
19 *RULES.*—*Clauses (ii) and (iii) of subsection*
20 *(m)(5)(D) shall apply for purposes of this*
21 *paragraph in a similar manner as they*
22 *apply for purposes of such subsection.*

23 “(C) *DEFINITIONS.*—*For purposes of this*
24 *paragraph:*

1 “(i) *ELIGIBLE PROFESSIONAL; COV-*
2 *ERED PROFESSIONAL SERVICES.—The terms*
3 *‘eligible professional’ and ‘covered profes-*
4 *sional services’ have the meanings given*
5 *such terms in subsection (k)(3).*

6 “(ii) *PHYSICIAN REPORTING SYS-*
7 *TEM.—The term ‘physician reporting sys-*
8 *tem’ means the system established under*
9 *subsection (k).*

10 “(iii) *QUALITY REPORTING PERIOD.—*
11 *The term ‘quality reporting period’ means,*
12 *with respect to a year, a period specified by*
13 *the Secretary.”.*

14 (c) *MAINTENANCE OF CERTIFICATION PROGRAMS.—*

15 (1) *IN GENERAL.—Section 1848(k)(4) of the So-*
16 *cial Security Act (42 U.S.C. 1395w-4(k)(4)) is*
17 *amended by inserting “or through a Maintenance of*
18 *Certification program operated by a specialty body of*
19 *the American Board of Medical Specialties that meets*
20 *the criteria for such a registry” after “Database)”.*

21 (2) *EFFECTIVE DATE.—The amendment made by*
22 *paragraph (1) shall apply for years after 2010.*

23 (d) *INTEGRATION OF PHYSICIAN QUALITY REPORTING*
24 *AND EHR REPORTING.—Section 1848(m) of the Social Se-*

1 *curity Act (42 U.S.C. 1395w-4(m)) is amended by adding*
2 *at the end the following new paragraph:*

3 “(7) *INTEGRATION OF PHYSICIAN QUALITY RE-*
4 *PORTING AND EHR REPORTING.*—*Not later than Jan-*
5 *uary 1, 2012, the Secretary shall develop a plan to*
6 *integrate reporting on quality measures under this*
7 *subsection with reporting requirements under sub-*
8 *section (o) relating to the meaningful use of electronic*
9 *health records. Such integration shall consist of the*
10 *following:*

11 “(A) *The selection of measures, the report-*
12 *ing of which would both demonstrate—*

13 “(i) *meaningful use of an electronic*
14 *health record for purposes of subsection (o);*
15 *and*

16 “(ii) *quality of care furnished to an*
17 *individual.*

18 “(B) *Such other activities as specified by*
19 *the Secretary.”.*

20 “(e) *FEEDBACK.*—*Section 1848(m)(5) of the Social Se-*
21 *curity Act (42 U.S.C. 1395w-4(m)(5)) is amended by add-*
22 *ing at the end the following new subparagraph:*

23 “(H) *FEEDBACK.*—*The Secretary shall pro-*
24 *vide timely feedback to eligible professionals on*
25 *the performance of the eligible professional with*

1 *respect to satisfactorily submitting data on qual-*
 2 *ity measures under this subsection.”.*

3 (f) *APPEALS.*—*Such section is further amended—*

4 (1) *in subparagraph (E), by striking “There*
 5 *shall” and inserting “Except as provided in subpara-*
 6 *graph (I), there shall”; and*

7 (2) *by adding at the end the following new sub-*
 8 *paragraph:*

9 “(I) *INFORMAL APPEALS PROCESS.*—*The*
 10 *Secretary shall, by not later than January 1,*
 11 *2011, establish and have in place an informal*
 12 *process for eligible professionals to seek a review*
 13 *of the determination that an eligible professional*
 14 *did not satisfactorily submit data on quality*
 15 *measures under this subsection.”.*

16 **SEC. 3003. IMPROVEMENTS TO THE PHYSICIAN FEEDBACK**
 17 **PROGRAM.**

18 (a) *IN GENERAL.*—*Section 1848(n) of the Social Secu-*
 19 *rity Act (42 U.S.C. 1395w-4(n)) is amended—*

20 (1) *in paragraph (1)—*

21 (A) *in subparagraph (A)—*

22 (i) *by striking “GENERAL.—The Sec-*
 23 *retary” and inserting “GENERAL.—*

24 “(i) *ESTABLISHMENT.—The Sec-*
 25 *retary”;*

1 (ii) in clause (i), as added by clause
2 (i), by striking “the ‘Program’)” and all
3 that follows through the period at the end of
4 the second sentence and inserting “the ‘Pro-
5 gram’).”;

6 (iii) by adding at the end the following
7 new clauses:

8 “(i) *REPORTS ON RESOURCES.*—The
9 Secretary shall use claims data under this
10 title (and may use other data) to provide
11 confidential reports to physicians (and, as
12 determined appropriate by the Secretary, to
13 groups of physicians) that measure the re-
14 sources involved in furnishing care to indi-
15 viduals under this title.

16 “(iii) *INCLUSION OF CERTAIN INFOR-*
17 *MATION.*—If determined appropriate by the
18 Secretary, the Secretary may include infor-
19 mation on the quality of care furnished to
20 individuals under this title by the physician
21 (or group of physicians) in such reports.”;
22 and

23 (B) in subparagraph (B), by striking “sub-
24 paragraph (A)” and inserting “subparagraph
25 (A)(ii)”;

1 (2) *in paragraph (4)—*

2 (A) *in the heading, by inserting “INITIAL”*
3 *after “FOCUS”; and*

4 (B) *in the matter preceding subparagraph*
5 *(A), by inserting “initial” after “focus the”;*

6 (3) *in paragraph (6), by adding at the end the*
7 *following new sentence: “For adjustments for reports*
8 *on utilization under paragraph (9), see subparagraph*
9 *(D) of such paragraph.”; and*

10 (4) *by adding at the end the following new para-*
11 *graphs:*

12 “(9) *REPORTS ON UTILIZATION.—*

13 “(A) *DEVELOPMENT OF EPISODE GROUP-*
14 *ER.—*

15 “(i) *IN GENERAL.—The Secretary shall*
16 *develop an episode grouper that combines*
17 *separate but clinically related items and*
18 *services into an episode of care for an indi-*
19 *vidual, as appropriate.*

20 “(ii) *TIMELINE FOR DEVELOPMENT.—*
21 *The episode grouper described in subpara-*
22 *graph (A) shall be developed by not later*
23 *than January 1, 2012.*

24 “(iii) *PUBLIC AVAILABILITY.—The Sec-*
25 *retary shall make the details of the episode*

1 *group* described in subparagraph (A)
2 available to the public.

3 “(iv) *ENDORSEMENT.*—The Secretary
4 shall seek endorsement of the episode group-
5 er described in subparagraph (A) by the en-
6 tity with a contract under section 1890(a).

7 “(B) *REPORTS ON UTILIZATION.*—Effective
8 beginning with 2012, the Secretary shall provide
9 reports to physicians that compare, as deter-
10 mined appropriate by the Secretary, patterns of
11 resource use of the individual physician to such
12 patterns of other physicians.

13 “(C) *ANALYSIS OF DATA.*—The Secretary
14 shall, for purposes of preparing reports under
15 this paragraph, establish methodologies as appro-
16 priate, such as to—

17 “(i) attribute episodes of care, in whole
18 or in part, to physicians;

19 “(ii) identify appropriate physicians
20 for purposes of comparison under subpara-
21 graph (B); and

22 “(iii) aggregate episodes of care attrib-
23 uted to a physician under clause (i) into a
24 composite measure per individual.

1 “(D) *DATA ADJUSTMENT.*—*In preparing re-*
2 *ports under this paragraph, the Secretary shall*
3 *make appropriate adjustments, including adjust-*
4 *ments—*

5 “(i) *to account for differences in socio-*
6 *economic and demographic characteristics,*
7 *ethnicity, and health status of individuals*
8 *(such as to recognize that less healthy indi-*
9 *viduals may require more intensive inter-*
10 *ventions); and*

11 “(ii) *to eliminate the effect of geo-*
12 *graphic adjustments in payment rates (as*
13 *described in subsection (e)).*

14 “(E) *PUBLIC AVAILABILITY OF METHOD-*
15 *LOGY.*—*The Secretary shall make available to*
16 *the public—*

17 “(i) *the methodologies established*
18 *under subparagraph (C);*

19 “(ii) *information regarding any ad-*
20 *justments made to data under subpara-*
21 *graph (D); and*

22 “(iii) *aggregate reports with respect to*
23 *physicians.*

24 “(F) *DEFINITION OF PHYSICIAN.*—*In this*
25 *paragraph:*

1 “(i) *IN GENERAL.*—The term ‘physi-
2 cian’ has the meaning given that term in
3 section 1861(r)(1).

4 “(ii) *TREATMENT OF GROUPS.*—Such
5 term includes, as the Secretary determines
6 appropriate, a group of physicians.

7 “(G) *LIMITATIONS ON REVIEW.*—There shall
8 be no administrative or judicial review under
9 section 1869, section 1878, or otherwise of the es-
10 tablishment of the methodology under subpara-
11 graph (C), including the determination of an
12 episode of care under such methodology.

13 “(10) *COORDINATION WITH OTHER VALUE-BASED*
14 *PURCHASING REFORMS.*—The Secretary shall coordi-
15 nate the Program with the value-based payment
16 modifier established under subsection (p) and, as the
17 Secretary determines appropriate, other similar pro-
18 visions of this title.”.

19 “(b) *CONFORMING AMENDMENT.*—Section 1890(b) of
20 the Social Security Act (42 U.S.C. 1395aaa(b)) is amended
21 by adding at the end the following new paragraph:

22 “(6) *REVIEW AND ENDORSEMENT OF EPISODE*
23 *GROUPER UNDER THE PHYSICIAN FEEDBACK PRO-*
24 *GRAM.*—The entity shall provide for the review and,
25 as appropriate, the endorsement of the episode group-

1 *er developed by the Secretary under section*
2 *1848(n)(9)(A). Such review shall be conducted on an*
3 *expedited basis.”.*

4 **SEC. 3004. QUALITY REPORTING FOR LONG-TERM CARE**
5 **HOSPITALS, INPATIENT REHABILITATION**
6 **HOSPITALS, AND HOSPICE PROGRAMS.**

7 *(a) LONG-TERM CARE HOSPITALS.—Section 1886(m)*
8 *of the Social Security Act (42 U.S.C. 1395ww(m)), as*
9 *amended by section 3401(c), is amended by adding at the*
10 *end the following new paragraph:*

11 *“(5) QUALITY REPORTING.—*

12 *“(A) REDUCTION IN UPDATE FOR FAILURE*
13 *TO REPORT.—*

14 *“(i) IN GENERAL.—Under the system*
15 *described in paragraph (1), for rate year*
16 *2014 and each subsequent rate year, in the*
17 *case of a long-term care hospital that does*
18 *not submit data to the Secretary in accord-*
19 *ance with subparagraph (C) with respect to*
20 *such a rate year, any annual update to a*
21 *standard Federal rate for discharges for the*
22 *hospital during the rate year, and after ap-*
23 *plication of paragraph (3), shall be reduced*
24 *by 2 percentage points.*

1 “(i) *SPECIAL RULE.*—*The application*
2 *of this subparagraph may result in such an-*
3 *annual update being less than 0.0 for a rate*
4 *year, and may result in payment rates*
5 *under the system described in paragraph*
6 *(1) for a rate year being less than such pay-*
7 *ment rates for the preceding rate year.*

8 “(B) *NONCUMULATIVE APPLICATION.*—*Any*
9 *reduction under subparagraph (A) shall apply*
10 *only with respect to the rate year involved and*
11 *the Secretary shall not take into account such re-*
12 *duction in computing the payment amount*
13 *under the system described in paragraph (1) for*
14 *a subsequent rate year.*

15 “(C) *SUBMISSION OF QUALITY DATA.*—*For*
16 *rate year 2014 and each subsequent rate year,*
17 *each long-term care hospital shall submit to the*
18 *Secretary data on quality measures specified*
19 *under subparagraph (D). Such data shall be sub-*
20 *mitted in a form and manner, and at a time,*
21 *specified by the Secretary for purposes of this*
22 *subparagraph.*

23 “(D) *QUALITY MEASURES.*—

24 “(i) *IN GENERAL.*—*Subject to clause*
25 *(ii), any measure specified by the Secretary*

1 *under this subparagraph must have been*
2 *endorsed by the entity with a contract*
3 *under section 1890(a).*

4 “(ii) *EXCEPTION.—In the case of a*
5 *specified area or medical topic determined*
6 *appropriate by the Secretary for which a*
7 *feasible and practical measure has not been*
8 *endorsed by the entity with a contract*
9 *under section 1890(a), the Secretary may*
10 *specify a measure that is not so endorsed as*
11 *long as due consideration is given to meas-*
12 *ures that have been endorsed or adopted by*
13 *a consensus organization identified by the*
14 *Secretary.*

15 “(iii) *TIME FRAME.—Not later than*
16 *October 1, 2012, the Secretary shall publish*
17 *the measures selected under this subpara-*
18 *graph that will be applicable with respect to*
19 *rate year 2014.*

20 “(E) *PUBLIC AVAILABILITY OF DATA SUB-*
21 *MITTED.—The Secretary shall establish proce-*
22 *dures for making data submitted under subpara-*
23 *graph (C) available to the public. Such proce-*
24 *dures shall ensure that a long-term care hospital*
25 *has the opportunity to review the data that is to*

1 *be made public with respect to the hospital prior*
2 *to such data being made public. The Secretary*
3 *shall report quality measures that relate to serv-*
4 *ices furnished in inpatient settings in long-term*
5 *care hospitals on the Internet website of the Cen-*
6 *ters for Medicare & Medicaid Services.”.*

7 ***(b) INPATIENT REHABILITATION HOSPITALS.—Section***
8 ***1886(j) of the Social Security Act (42 U.S.C. 1395ww(j))***
9 ***is amended—***

10 ***(1) by redesignating paragraph (7) as para-***
11 ***graph (8); and***

12 ***(2) by inserting after paragraph (6) the fol-***
13 ***lowing new paragraph:***

14 ***“(7) QUALITY REPORTING.—***

15 ***“(A) REDUCTION IN UPDATE FOR FAILURE***
16 ***TO REPORT.—***

17 ***“(i) IN GENERAL.—For purposes of fis-***
18 ***cal year 2014 and each subsequent fiscal***
19 ***year, in the case of a rehabilitation facility***
20 ***that does not submit data to the Secretary***
21 ***in accordance with subparagraph (C) with***
22 ***respect to such a fiscal year, after deter-***
23 ***mining the increase factor described in***
24 ***paragraph (3)(C), and after application of***
25 ***paragraph (3)(D), the Secretary shall re-***

1 *duce such increase factor for payments for*
2 *discharges occurring during such fiscal year*
3 *by 2 percentage points.*

4 “(ii) *SPECIAL RULE.—The application*
5 *of this subparagraph may result in the in-*
6 *crease factor described in paragraph (3)(C)*
7 *being less than 0.0 for a fiscal year, and*
8 *may result in payment rates under this*
9 *subsection for a fiscal year being less than*
10 *such payment rates for the preceding fiscal*
11 *year.*

12 “(B) *NONCUMULATIVE APPLICATION.—Any*
13 *reduction under subparagraph (A) shall apply*
14 *only with respect to the fiscal year involved and*
15 *the Secretary shall not take into account such re-*
16 *duction in computing the payment amount*
17 *under this subsection for a subsequent fiscal*
18 *year.*

19 “(C) *SUBMISSION OF QUALITY DATA.—For*
20 *fiscal year 2014 and each subsequent rate year,*
21 *each rehabilitation facility shall submit to the*
22 *Secretary data on quality measures specified*
23 *under subparagraph (D). Such data shall be sub-*
24 *mitted in a form and manner, and at a time,*

1 *specified by the Secretary for purposes of this*
2 *subparagraph.*

3 “(D) *QUALITY MEASURES.*—

4 “(i) *IN GENERAL.*—*Subject to clause*
5 *(ii), any measure specified by the Secretary*
6 *under this subparagraph must have been*
7 *endorsed by the entity with a contract*
8 *under section 1890(a).*

9 “(ii) *EXCEPTION.*—*In the case of a*
10 *specified area or medical topic determined*
11 *appropriate by the Secretary for which a*
12 *feasible and practical measure has not been*
13 *endorsed by the entity with a contract*
14 *under section 1890(a), the Secretary may*
15 *specify a measure that is not so endorsed as*
16 *long as due consideration is given to meas-*
17 *ures that have been endorsed or adopted by*
18 *a consensus organization identified by the*
19 *Secretary.*

20 “(iii) *TIME FRAME.*—*Not later than*
21 *October 1, 2012, the Secretary shall publish*
22 *the measures selected under this subpara-*
23 *graph that will be applicable with respect to*
24 *fiscal year 2014.*

1 “(E) *PUBLIC AVAILABILITY OF DATA SUB-*
2 *MITTED.—The Secretary shall establish proce-*
3 *dures for making data submitted under subpara-*
4 *graph (C) available to the public. Such proce-*
5 *dures shall ensure that a rehabilitation facility*
6 *has the opportunity to review the data that is to*
7 *be made public with respect to the facility prior*
8 *to such data being made public. The Secretary*
9 *shall report quality measures that relate to serv-*
10 *ices furnished in inpatient settings in rehabilita-*
11 *tion facilities on the Internet website of the Cen-*
12 *ters for Medicare & Medicaid Services.”.*

13 (c) *HOSPICE PROGRAMS.—Section 1814(i) of the So-*
14 *cial Security Act (42 U.S.C. 1395f(i)) is amended—*

15 (1) *by redesignating paragraph (5) as para-*
16 *graph (6); and*

17 (2) *by inserting after paragraph (4) the fol-*
18 *lowing new paragraph:*

19 “(5) *QUALITY REPORTING.—*

20 “(A) *REDUCTION IN UPDATE FOR FAILURE*
21 *TO REPORT.—*

22 “(i) *IN GENERAL.—For purposes of fis-*
23 *cal year 2014 and each subsequent fiscal*
24 *year, in the case of a hospice program that*
25 *does not submit data to the Secretary in ac-*

1 *cordance with subparagraph (C) with re-*
2 *spect to such a fiscal year, after deter-*
3 *mining the market basket percentage in-*
4 *crease under paragraph (1)(C)(ii)(VII) or*
5 *paragraph (1)(C)(iii), as applicable, and*
6 *after application of paragraph (1)(C)(iv),*
7 *with respect to the fiscal year, the Secretary*
8 *shall reduce such market basket percentage*
9 *increase by 2 percentage points.*

10 “(i) *SPECIAL RULE.—The application*
11 *of this subparagraph may result in the*
12 *market basket percentage increase under*
13 *paragraph (1)(C)(ii)(VII) or paragraph*
14 *(1)(C)(iii), as applicable, being less than*
15 *0.0 for a fiscal year, and may result in*
16 *payment rates under this subsection for a*
17 *fiscal year being less than such payment*
18 *rates for the preceding fiscal year.*

19 “(B) *NONCUMULATIVE APPLICATION.—Any*
20 *reduction under subparagraph (A) shall apply*
21 *only with respect to the fiscal year involved and*
22 *the Secretary shall not take into account such re-*
23 *duction in computing the payment amount*
24 *under this subsection for a subsequent fiscal*
25 *year.*

1 “(C) *SUBMISSION OF QUALITY DATA.*—*For*
2 *fiscal year 2014 and each subsequent fiscal year,*
3 *each hospice program shall submit to the Sec-*
4 *retary data on quality measures specified under*
5 *subparagraph (D). Such data shall be submitted*
6 *in a form and manner, and at a time, specified*
7 *by the Secretary for purposes of this subpara-*
8 *graph.*

9 “(D) *QUALITY MEASURES.*—

10 “(i) *IN GENERAL.*—*Subject to clause*
11 *(ii), any measure specified by the Secretary*
12 *under this subparagraph must have been*
13 *endorsed by the entity with a contract*
14 *under section 1890(a).*

15 “(ii) *EXCEPTION.*—*In the case of a*
16 *specified area or medical topic determined*
17 *appropriate by the Secretary for which a*
18 *feasible and practical measure has not been*
19 *endorsed by the entity with a contract*
20 *under section 1890(a), the Secretary may*
21 *specify a measure that is not so endorsed as*
22 *long as due consideration is given to meas-*
23 *ures that have been endorsed or adopted by*
24 *a consensus organization identified by the*
25 *Secretary.*

1 “(iii) *TIME FRAME.*—Not later than
2 October 1, 2012, the Secretary shall publish
3 the measures selected under this subpara-
4 graph that will be applicable with respect to
5 fiscal year 2014.

6 “(E) *PUBLIC AVAILABILITY OF DATA SUB-*
7 *MITTED.*—The Secretary shall establish proce-
8 dures for making data submitted under subpara-
9 graph (C) available to the public. Such proce-
10 dures shall ensure that a hospice program has
11 the opportunity to review the data that is to be
12 made public with respect to the hospice program
13 prior to such data being made public. The Sec-
14 retary shall report quality measures that relate
15 to hospice care provided by hospice programs on
16 the Internet website of the Centers for Medicare
17 & Medicaid Services.”.

18 **SEC. 3005. QUALITY REPORTING FOR PPS-EXEMPT CANCER**
19 **HOSPITALS.**

20 Section 1866 of the Social Security Act (42 U.S.C.
21 1395cc) is amended—

22 (1) in subsection (a)(1)—

23 (A) in subparagraph (U), by striking “and”
24 at the end;

1 (B) in subparagraph (V), by striking the
2 period at the end and inserting “, and”; and

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

5 “(W) in the case of a hospital described in
6 section 1886(d)(1)(B)(v), to report quality data
7 to the Secretary in accordance with subsection
8 (k).”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(k) *QUALITY REPORTING BY CANCER HOSPITALS.*—

12 “(1) *IN GENERAL.*—For purposes of fiscal year
13 2014 and each subsequent fiscal year, a hospital de-
14 scribed in section 1886(d)(1)(B)(v) shall submit data
15 to the Secretary in accordance with paragraph (2)
16 with respect to such a fiscal year.

17 “(2) *SUBMISSION OF QUALITY DATA.*—For fiscal
18 year 2014 and each subsequent fiscal year, each hos-
19 pital described in such section shall submit to the Sec-
20 retary data on quality measures specified under
21 paragraph (3). Such data shall be submitted in a
22 form and manner, and at a time, specified by the
23 Secretary for purposes of this subparagraph.

24 “(3) *QUALITY MEASURES.*—

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B), any measure specified by the Sec-
3 retary under this paragraph must have been en-
4 dorsed by the entity with a contract under sec-
5 tion 1890(a).

6 “(B) *EXCEPTION.*—In the case of a specified
7 area or medical topic determined appropriate by
8 the Secretary for which a feasible and practical
9 measure has not been endorsed by the entity with
10 a contract under section 1890(a), the Secretary
11 may specify a measure that is not so endorsed as
12 long as due consideration is given to measures
13 that have been endorsed or adopted by a con-
14 sensus organization identified by the Secretary.

15 “(C) *TIME FRAME.*—Not later than October
16 1, 2012, the Secretary shall publish the measures
17 selected under this paragraph that will be appli-
18 cable with respect to fiscal year 2014.

19 “(4) *PUBLIC AVAILABILITY OF DATA SUB-*
20 *MITTED.*—The Secretary shall establish procedures for
21 making data submitted under paragraph (4) avail-
22 able to the public. Such procedures shall ensure that
23 a hospital described in section 1886(d)(1)(B)(v) has
24 the opportunity to review the data that is to be made
25 public with respect to the hospital prior to such data

1 *being made public. The Secretary shall report quality*
2 *measures of process, structure, outcome, patients' per-*
3 *spective on care, efficiency, and costs of care that re-*
4 *late to services furnished in such hospitals on the*
5 *Internet website of the Centers for Medicare & Med-*
6 *icaid Services.”.*

7 **SEC. 3006. PLANS FOR A VALUE-BASED PURCHASING PRO-**
8 **GRAM FOR SKILLED NURSING FACILITIES**
9 **AND HOME HEALTH AGENCIES.**

10 *(a) SKILLED NURSING FACILITIES.—*

11 *(1) IN GENERAL.—The Secretary of Health and*
12 *Human Services (in this section referred to as the*
13 *“Secretary”) shall develop a plan to implement a*
14 *value-based purchasing program for payments under*
15 *the Medicare program under title XVIII of the Social*
16 *Security Act for skilled nursing facilities (as defined*
17 *in section 1819(a) of such Act (42 U.S.C. 1395i-*
18 *3(a))).*

19 *(2) DETAILS.—In developing the plan under*
20 *paragraph (1), the Secretary shall consider the fol-*
21 *lowing issues:*

22 *(A) The ongoing development, selection, and*
23 *modification process for measures (including*
24 *under section 1890 of the Social Security Act (42*
25 *U.S.C. 1395aaa) and section 1890A such Act, as*

1 *added by section 3014), to the extent feasible and*
2 *practicable, of all dimensions of quality and effi-*
3 *ciency in skilled nursing facilities.*

4 *(i) IN GENERAL.—Subject to clause*
5 *(ii), any measure specified by the Secretary*
6 *under subparagraph (A)(iii) must have been*
7 *endorsed by the entity with a contract*
8 *under section 1890(a).*

9 *(ii) EXCEPTION.—In the case of a spec-*
10 *ified area or medical topic determined ap-*
11 *propriate by the Secretary for which a fea-*
12 *sible and practical measure has not been en-*
13 *dorsed by the entity with a contract under*
14 *section 1890(a), the Secretary may specify a*
15 *measure that is not so endorsed as long as*
16 *due consideration is given to measures that*
17 *have been endorsed or adopted by a con-*
18 *sensus organization identified by the Sec-*
19 *retary.*

20 *(B) The reporting, collection, and valida-*
21 *tion of quality data.*

22 *(C) The structure of value-based payment*
23 *adjustments, including the determination of*
24 *thresholds or improvements in quality that*
25 *would substantiate a payment adjustment, the*

1 *size of such payments, and the sources of funding*
2 *for the value-based bonus payments.*

3 *(D) Methods for the public disclosure of in-*
4 *formation on the performance of skilled nursing*
5 *facilities.*

6 *(E) Any other issues determined appro-*
7 *priate by the Secretary.*

8 (3) *CONSULTATION.*—*In developing the plan*
9 *under paragraph (1), the Secretary shall—*

10 *(A) consult with relevant affected parties;*
11 *and*

12 *(B) consider experience with such dem-*
13 *onstrations that the Secretary determines are rel-*
14 *evant to the value-based purchasing program de-*
15 *scribed in paragraph (1).*

16 (4) *REPORT TO CONGRESS.*—*Not later than Oc-*
17 *tober 1, 2011, the Secretary shall submit to Congress*
18 *a report containing the plan developed under para-*
19 *graph (1).*

20 (b) *HOME HEALTH AGENCIES.*—

21 (1) *IN GENERAL.*—*The Secretary of Health and*
22 *Human Services (in this section referred to as the*
23 *“Secretary”) shall develop a plan to implement a*
24 *value-based purchasing program for payments under*
25 *the Medicare program under title XVIII of the Social*

1 *Security Act for home health agencies (as defined in*
2 *section 1861(o) of such Act (42 U.S.C. 1395x(o))).*

3 (2) *DETAILS.—In developing the plan under*
4 *paragraph (1), the Secretary shall consider the fol-*
5 *lowing issues:*

6 (A) *The ongoing development, selection, and*
7 *modification process for measures (including*
8 *under section 1890 of the Social Security Act (42*
9 *U.S.C. 1395aaa) and section 1890A such Act, as*
10 *added by section 3014), to the extent feasible and*
11 *practicable, of all dimensions of quality and effi-*
12 *ciency in home health agencies.*

13 (B) *The reporting, collection, and valida-*
14 *tion of quality data.*

15 (C) *The structure of value-based payment*
16 *adjustments, including the determination of*
17 *thresholds or improvements in quality that*
18 *would substantiate a payment adjustment, the*
19 *size of such payments, and the sources of funding*
20 *for the value-based bonus payments.*

21 (D) *Methods for the public disclosure of in-*
22 *formation on the performance of home health*
23 *agencies.*

24 (E) *Any other issues determined appro-*
25 *priate by the Secretary.*

1 (3) *CONSULTATION.*—*In developing the plan*
2 *under paragraph (1), the Secretary shall—*

3 (A) *consult with relevant affected parties;*
4 *and*

5 (B) *consider experience with such dem-*
6 *onstrations that the Secretary determines are rel-*
7 *evant to the value-based purchasing program de-*
8 *scribed in paragraph (1).*

9 (4) *REPORT TO CONGRESS.*—*Not later than Oc-*
10 *tober 1, 2011, the Secretary shall submit to Congress*
11 *a report containing the plan developed under para-*
12 *graph (1).*

13 **SEC. 3007. VALUE-BASED PAYMENT MODIFIER UNDER THE**
14 **PHYSICIAN FEE SCHEDULE.**

15 *Section 1848 of the Social Security Act (42 U.S.C.*
16 *1395w-4) is amended—*

17 (1) *in subsection (b)(1), by inserting “subject to*
18 *subsection (p),” after “1998;” and*

19 (2) *by adding at the end the following new sub-*
20 *section:*

21 “(p) *ESTABLISHMENT OF VALUE-BASED PAYMENT*
22 *MODIFIER.*—

23 “(1) *IN GENERAL.*—*The Secretary shall establish*
24 *a payment modifier that provides for differential*
25 *payment to a physician or a group of physicians*

1 *under the fee schedule established under subsection (b)*
2 *based upon the quality of care furnished compared to*
3 *cost (as determined under paragraphs (2) and (3), re-*
4 *spectively) during a performance period. Such pay-*
5 *ment modifier shall be separate from the geographic*
6 *adjustment factors established under subsection (e).*

7 “(2) *QUALITY.*—

8 “(A) *IN GENERAL.*—*For purposes of para-*
9 *graph (1), quality of care shall be evaluated, to*
10 *the extent practicable, based on a composite of*
11 *measures of the quality of care furnished (as es-*
12 *tablished by the Secretary under subparagraph*
13 *(B)).*

14 “(B) *MEASURES.*—

15 “(i) *The Secretary shall establish ap-*
16 *propriate measures of the quality of care*
17 *furnished by a physician or group of physi-*
18 *cians to individuals enrolled under this*
19 *part, such as measures that reflect health*
20 *outcomes. Such measures shall be risk ad-*
21 *justed as determined appropriate by the*
22 *Secretary.*

23 “(ii) *The Secretary shall seek endorse-*
24 *ment of the measures established under this*

1 *subparagraph by the entity with a contract*
2 *under section 1890(a).*

3 “(3) *COSTS.—For purposes of paragraph (1),*
4 *costs shall be evaluated, to the extent practicable,*
5 *based on a composite of appropriate measures of costs*
6 *established by the Secretary (such as the composite*
7 *measure under the methodology established under sub-*
8 *section (n)(9)(C)(iii)) that eliminate the effect of geo-*
9 *graphic adjustments in payment rates (as described*
10 *in subsection (e)), and take into account risk factors*
11 *(such as socioeconomic and demographic characteris-*
12 *tics, ethnicity, and health status of individuals (such*
13 *as to recognize that less healthy individuals may re-*
14 *quire more intensive interventions) and other factors*
15 *determined appropriate by the Secretary.*

16 “(4) *IMPLEMENTATION.—*

17 “(A) *PUBLICATION OF MEASURES, DATES*
18 *OF IMPLEMENTATION, PERFORMANCE PERIOD.—*
19 *Not later than January 1, 2012, the Secretary*
20 *shall publish the following:*

21 “(i) *The measures of quality of care*
22 *and costs established under paragraphs (2)*
23 *and (3), respectively.*

1 “(ii) *The dates for implementation of*
2 *the payment modifier (as determined under*
3 *subparagraph (B)).*

4 “(iii) *The initial performance period*
5 *(as specified under subparagraph (B)(ii)).*

6 “(B) *DEADLINES FOR IMPLEMENTATION.—*

7 “(i) *INITIAL IMPLEMENTATION.—Sub-*
8 *ject to the preceding provisions of this sub-*
9 *paragraph, the Secretary shall begin imple-*
10 *menting the payment modifier established*
11 *under this subsection through the rule-*
12 *making process during 2013 for the physi-*
13 *cian fee schedule established under sub-*
14 *section (b).*

15 “(ii) *INITIAL PERFORMANCE PERIOD.—*

16 “(I) *IN GENERAL.—The Secretary*
17 *shall specify an initial performance*
18 *period for application of the payment*
19 *modifier established under this sub-*
20 *section with respect to 2015.*

21 “(II) *PROVISION OF INFORMATION*
22 *DURING INITIAL PERFORMANCE PE-*
23 *RIOD.—During the initial performance*
24 *period, the Secretary shall, to the ex-*
25 *tent practicable, provide information*

1 to physicians and groups of physicians
2 about the quality of care furnished by
3 the physician or group of physicians to
4 individuals enrolled under this part
5 compared to cost (as determined under
6 paragraphs (2) and (3), respectively)
7 with respect to the performance period.

8 “(iii) *APPLICATION.*—The Secretary
9 shall apply the payment modifier estab-
10 lished under this subsection for items and
11 services furnished—

12 “(I) beginning on January 1,
13 2015, with respect to specific physi-
14 cians and groups of physicians the
15 Secretary determines appropriate; and

16 “(II) beginning not later than
17 January 1, 2017, with respect to all
18 physicians and groups of physicians.

19 “(C) *BUDGET NEUTRALITY.*—The payment
20 modifier established under this subsection shall
21 be implemented in a budget neutral manner.

22 “(5) *SYSTEMS-BASED CARE.*—The Secretary
23 shall, as appropriate, apply the payment modifier es-
24 tablished under this subsection in a manner that pro-
25 motes systems-based care.

1 “(6) *CONSIDERATION OF SPECIAL CIR-*
2 *CUMSTANCES OF CERTAIN PROVIDERS.*—*In applying*
3 *the payment modifier under this subsection, the Sec-*
4 *retary shall, as appropriate, take into account the*
5 *special circumstances of physicians or groups of phy-*
6 *sicians in rural areas and other underserved commu-*
7 *nities.*

8 “(7) *APPLICATION.*—*For purposes of the initial*
9 *application of the payment modifier established under*
10 *this subsection during the period beginning on Janu-*
11 *ary 1, 2015, and ending on December 31, 2016, the*
12 *term ‘physician’ has the meaning given such term in*
13 *section 1861(r). On or after January 1, 2017, the Sec-*
14 *retary may apply this subsection to eligible profes-*
15 *sionals (as defined in subsection (k)(3)(B)) as the Sec-*
16 *retary determines appropriate.*

17 “(8) *DEFINITIONS.*—*For purposes of this sub-*
18 *section:*

19 “(A) *COSTS.*—*The term ‘costs’ means ex-*
20 *penditures per individual as determined appro-*
21 *priate by the Secretary. In making the deter-*
22 *mination under the preceding sentence, the Sec-*
23 *retary may take into account the amount of*
24 *growth in expenditures per individual for a phy-*

1 sician compared to the amount of such growth
2 for other physicians.

3 “(B) *PERFORMANCE PERIOD.*—The term
4 ‘performance period’ means a period specified by
5 the Secretary.

6 “(9) *COORDINATION WITH OTHER VALUE-BASED*
7 *PURCHASING REFORMS.*—The Secretary shall coordi-
8 nate the value-based payment modifier established
9 under this subsection with the Physician Feedback
10 Program under subsection (n) and, as the Secretary
11 determines appropriate, other similar provisions of
12 this title.

13 “(10) *LIMITATIONS ON REVIEW.*—There shall be
14 no administrative or judicial review under section
15 1869, section 1878, or otherwise of—

16 “(A) the establishment of the value-based
17 payment modifier under this subsection;

18 “(B) the evaluation of quality of care under
19 paragraph (2), including the establishment of
20 appropriate measures of the quality of care
21 under paragraph (2)(B);

22 “(C) the evaluation of costs under para-
23 graph (3), including the establishment of appro-
24 priate measures of costs under such paragraph;

1 “(D) the dates for implementation of the
2 value-based payment modifier;

3 “(E) the specification of the initial perform-
4 ance period and any other performance period
5 under paragraphs (4)(B)(ii) and (8)(B), respec-
6 tively;

7 “(F) the application of the value-based pay-
8 ment modifier under paragraph (7); and

9 “(G) the determination of costs under para-
10 graph (8)(A).”.

11 **SEC. 3008. PAYMENT ADJUSTMENT FOR CONDITIONS AC-**
12 **QUIRED IN HOSPITALS.**

13 (a) *IN GENERAL.*—Section 1886 of the Social Security
14 Act (42 U.S.C. 1395ww), as amended by section 3001, is
15 amended by adding at the end the following new subsection:

16 “(p) *ADJUSTMENT TO HOSPITAL PAYMENTS FOR HOS-*
17 *PITAL ACQUIRED CONDITIONS.*—

18 “(1) *IN GENERAL.*—In order to provide an in-
19 centive for applicable hospitals to reduce hospital ac-
20 quired conditions under this title, with respect to dis-
21 charges from an applicable hospital occurring during
22 fiscal year 2015 or a subsequent fiscal year, the
23 amount of payment under this section or section
24 1814(b)(3), as applicable, for such discharges during
25 the fiscal year shall be equal to 99 percent of the

1 *amount of payment that would otherwise apply to*
2 *such discharges under this section or section*
3 *1814(b)(3) (determined after the application of sub-*
4 *sections (o) and (q) and section 1814(l)(4) but with-*
5 *out regard to this subsection).*

6 “(2) *APPLICABLE HOSPITALS.—*

7 “(A) *IN GENERAL.—For purposes of this*
8 *subsection, the term ‘applicable hospital’ means*
9 *a subsection (d) hospital that meets the criteria*
10 *described in subparagraph (B).*

11 “(B) *CRITERIA DESCRIBED.—*

12 “(i) *IN GENERAL.—The criteria de-*
13 *scribed in this subparagraph, with respect*
14 *to a subsection (d) hospital, is that the sub-*
15 *section (d) hospital is in the top quartile of*
16 *all subsection (d) hospitals, relative to the*
17 *national average, of hospital acquired con-*
18 *ditions during the applicable period, as de-*
19 *termined by the Secretary.*

20 “(ii) *RISK ADJUSTMENT.—In carrying*
21 *out clause (i), the Secretary shall establish*
22 *and apply an appropriate risk adjustment*
23 *methodology.*

24 “(C) *EXEMPTION.—In the case of a hospital*
25 *that is paid under section 1814(b)(3), the Sec-*

1 *retary may exempt such hospital from the appli-*
2 *cation of this subsection if the State which is*
3 *paid under such section submits an annual re-*
4 *port to the Secretary describing how a similar*
5 *program in the State for a participating hos-*
6 *pital or hospitals achieves or surpasses the meas-*
7 *ured results in terms of patient health outcomes*
8 *and cost savings established under this sub-*
9 *section.*

10 *“(3) HOSPITAL ACQUIRED CONDITIONS.—For*
11 *purposes of this subsection, the term ‘hospital ac-*
12 *quired condition’ means a condition identified for*
13 *purposes of subsection (d)(4)(D)(iv) and any other*
14 *condition determined appropriate by the Secretary*
15 *that an individual acquires during a stay in an ap-*
16 *plicable hospital, as determined by the Secretary.*

17 *“(4) APPLICABLE PERIOD.—In this subsection,*
18 *the term ‘applicable period’ means, with respect to a*
19 *fiscal year, a period specified by the Secretary.*

20 *“(5) REPORTING TO HOSPITALS.—Prior to fiscal*
21 *year 2015 and each subsequent fiscal year, the Sec-*
22 *retary shall provide confidential reports to applicable*
23 *hospitals with respect to hospital acquired conditions*
24 *of the applicable hospital during the applicable pe-*
25 *riod.*

1 “(6) *REPORTING HOSPITAL SPECIFIC INFORMA-*
2 *TION.—*

3 “(A) *IN GENERAL.—The Secretary shall*
4 *make information available to the public regard-*
5 *ing hospital acquired conditions of each applica-*
6 *ble hospital.*

7 “(B) *OPPORTUNITY TO REVIEW AND SUBMIT*
8 *CORRECTIONS.—The Secretary shall ensure that*
9 *an applicable hospital has the opportunity to re-*
10 *view, and submit corrections for, the information*
11 *to be made public with respect to the hospital*
12 *under subparagraph (A) prior to such informa-*
13 *tion being made public.*

14 “(C) *WEBSITE.—Such information shall be*
15 *posted on the Hospital Compare Internet website*
16 *in an easily understandable format.*

17 “(7) *LIMITATIONS ON REVIEW.—There shall be*
18 *no administrative or judicial review under section*
19 *1869, section 1878, or otherwise of the following:*

20 “(A) *The criteria described in paragraph*
21 *(2)(A).*

22 “(B) *The specification of hospital acquired*
23 *conditions under paragraph (3).*

24 “(C) *The specification of the applicable pe-*
25 *riod under paragraph (4).*

1 “(D) *The provision of reports to applicable*
2 *hospitals under paragraph (5) and the informa-*
3 *tion made available to the public under para-*
4 *graph (6).”.*

5 (b) *STUDY AND REPORT ON EXPANSION OF*
6 *HEALTHCARE ACQUIRED CONDITIONS POLICY TO OTHER*
7 *PROVIDERS.—*

8 (1) *STUDY.—The Secretary of Health and*
9 *Human Services shall conduct a study on expanding*
10 *the healthcare acquired conditions policy under sub-*
11 *section (d)(4)(D) of section 1886 of the Social Secu-*
12 *rity Act (42 U.S.C. 1395ww) to payments made to*
13 *other facilities under the Medicare program under*
14 *title XVIII of the Social Security Act, including such*
15 *payments made to inpatient rehabilitation facilities,*
16 *long-term care hospitals (as described in sub-*
17 *section(d)(1)(B)(iv) of such section), hospital out-*
18 *patient departments, and other hospitals excluded*
19 *from the inpatient prospective payment system under*
20 *such section, skilled nursing facilities, ambulatory*
21 *surgical centers, and health clinics. Such study shall*
22 *include an analysis of how such policies could impact*
23 *quality of patient care, patient safety, and spending*
24 *under the Medicare program.*

1 (2) *REPORT.*—Not later than January 1, 2012,
2 the Secretary shall submit to Congress a report con-
3 taining the results of the study conducted under para-
4 graph (1), together with recommendations for such
5 legislation and administrative action as the Secretary
6 determines appropriate.

7 **PART II—NATIONAL STRATEGY TO IMPROVE**
8 **HEALTH CARE QUALITY**

9 **SEC. 3011. NATIONAL STRATEGY.**

10 Title III of the Public Health Service Act (42 U.S.C.
11 241 et seq.) is amended by adding at the end the following:

12 **“PART S—HEALTH CARE QUALITY PROGRAMS**

13 **“Subpart I—National Strategy for Quality**

14 **Improvement in Health Care**

15 **“SEC. 399HH. NATIONAL STRATEGY FOR QUALITY IMPROVE-**
16 **MENT IN HEALTH CARE.**

17 “(a) *ESTABLISHMENT OF NATIONAL STRATEGY AND*
18 *PRIORITIES.*—

19 “(1) *NATIONAL STRATEGY.*—The Secretary,
20 through a transparent collaborative process, shall es-
21 tablish a national strategy to improve the delivery of
22 health care services, patient health outcomes, and
23 population health.

24 “(2) *IDENTIFICATION OF PRIORITIES.*—

1 “(A) *IN GENERAL.*—*The Secretary shall*
2 *identify national priorities for improvement in*
3 *developing the strategy under paragraph (1).*

4 “(B) *REQUIREMENTS.*—*The Secretary shall*
5 *ensure that priorities identified under subpara-*
6 *graph (A) will—*

7 “(i) *have the greatest potential for im-*
8 *proving the health outcomes, efficiency, and*
9 *patient-centeredness of health care for all*
10 *populations, including children and vulner-*
11 *able populations;*

12 “(ii) *identify areas in the delivery of*
13 *health care services that have the potential*
14 *for rapid improvement in the quality and*
15 *efficiency of patient care;*

16 “(iii) *address gaps in quality, effi-*
17 *ciency, comparative effectiveness informa-*
18 *tion, and health outcomes measures and*
19 *data aggregation techniques;*

20 “(iv) *improve Federal payment policy*
21 *to emphasize quality and efficiency;*

22 “(v) *enhance the use of health care*
23 *data to improve quality, efficiency, trans-*
24 *parency, and outcomes;*

1 “(vi) address the health care provided
2 to patients with high-cost chronic diseases;

3 “(vii) improve research and dissemina-
4 tion of strategies and best practices to im-
5 prove patient safety and reduce medical er-
6 rors, preventable admissions and readmis-
7 sions, and health care-associated infections;

8 “(viii) reduce health disparities across
9 health disparity populations (as defined in
10 section 485E) and geographic areas; and

11 “(ix) address other areas as determined
12 appropriate by the Secretary.

13 “(C) CONSIDERATIONS.—In identifying pri-
14 orities under subparagraph (A), the Secretary
15 shall take into consideration the recommenda-
16 tions submitted by the entity with a contract
17 under section 1890(a) of the Social Security Act
18 and other stakeholders.

19 “(D) COORDINATION WITH STATE AGEN-
20 CIES.—The Secretary shall collaborate, coordi-
21 nate, and consult with State agencies responsible
22 for administering the Medicaid program under
23 title XIX of the Social Security Act and the
24 Children’s Health Insurance Program under title
25 XXI of such Act with respect to developing and

1 *disseminating strategies, goals, models, and*
2 *timetables that are consistent with the national*
3 *priorities identified under subparagraph (A).*

4 “(b) *STRATEGIC PLAN.*—

5 “(1) *IN GENERAL.*—*The national strategy shall*
6 *include a comprehensive strategic plan to achieve the*
7 *priorities described in subsection (a).*

8 “(2) *REQUIREMENTS.*—*The strategic plan shall*
9 *include provisions for addressing, at a minimum, the*
10 *following:*

11 “(A) *Coordination among agencies within*
12 *the Department, which shall include steps to*
13 *minimize duplication of efforts and utilization of*
14 *common quality measures, where available. Such*
15 *common quality measures shall be measures*
16 *identified by the Secretary under section 1139A*
17 *or 1139B of the Social Security Act or endorsed*
18 *under section 1890 of such Act.*

19 “(B) *Agency-specific strategic plans to*
20 *achieve national priorities.*

21 “(C) *Establishment of annual benchmarks*
22 *for each relevant agency to achieve national pri-*
23 *orities.*

1 “(D) A process for regular reporting by the
2 agencies to the Secretary on the implementation
3 of the strategic plan.

4 “(E) Strategies to align public and private
5 payers with regard to quality and patient safety
6 efforts.

7 “(F) Incorporating quality improvement
8 and measurement in the strategic plan for health
9 information technology required by the American
10 Recovery and Reinvestment Act of 2009 (Public
11 Law 111–5).

12 “(c) PERIODIC UPDATE OF NATIONAL STRATEGY.—
13 The Secretary shall update the national strategy not less
14 than annually. Any such update shall include a review of
15 short- and long-term goals.

16 “(d) SUBMISSION AND AVAILABILITY OF NATIONAL
17 STRATEGY AND UPDATES.—

18 “(1) DEADLINE FOR INITIAL SUBMISSION OF NA-
19 TIONAL STRATEGY.—Not later than January 1, 2011,
20 the Secretary shall submit to the relevant committees
21 of Congress the national strategy described in sub-
22 section (a).

23 “(2) UPDATES.—

24 “(A) IN GENERAL.—The Secretary shall
25 submit to the relevant committees of Congress an

1 *annual update to the strategy described in para-*
2 *graph (1).*

3 “(B) *INFORMATION SUBMITTED.*—*Each up-*
4 *date submitted under subparagraph (A) shall in-*
5 *clude—*

6 “(i) *a review of the short- and long-*
7 *term goals of the national strategy and any*
8 *gaps in such strategy;*

9 “(ii) *an analysis of the progress, or*
10 *lack of progress, in meeting such goals and*
11 *any barriers to such progress;*

12 “(iii) *the information reported under*
13 *section 1139A of the Social Security Act,*
14 *consistent with the reporting requirements*
15 *of such section; and*

16 “(iv) *in the case of an update required*
17 *to be submitted on or after January 1,*
18 *2014, the information reported under sec-*
19 *tion 1139B(b)(4) of the Social Security Act,*
20 *consistent with the reporting requirements*
21 *of such section.*

22 “(C) *SATISFACTION OF OTHER REPORTING*
23 *REQUIREMENTS.*—*Compliance with the require-*
24 *ments of clauses (iii) and (iv) of subparagraph*
25 *(B) shall satisfy the reporting requirements*

1 *under sections 1139A(a)(6) and 1139B(b)(4), re-*
2 *spectively, of the Social Security Act.*

3 “(e) *HEALTH CARE QUALITY INTERNET WEBSITE.—*
4 *Not later than January 1, 2011, the Secretary shall create*
5 *an Internet website to make public information regard-*
6 *ing—*

7 *“(1) the national priorities for health care qual-*
8 *ity improvement established under subsection (a)(2);*

9 *“(2) the agency-specific strategic plans for health*
10 *care quality described in subsection (b)(2)(B); and*

11 *“(3) other information, as the Secretary deter-*
12 *mines to be appropriate.”.*

13 **SEC. 3012. INTERAGENCY WORKING GROUP ON HEALTH**
14 **CARE QUALITY.**

15 (a) *IN GENERAL.—The President shall convene a*
16 *working group to be known as the Interagency Working*
17 *Group on Health Care Quality (referred to in this section*
18 *as the “Working Group”).*

19 (b) *GOALS.—The goals of the Working Group shall be*
20 *to achieve the following:*

21 (1) *Collaboration, cooperation, and consultation*
22 *between Federal departments and agencies with re-*
23 *spect to developing and disseminating strategies,*
24 *goals, models, and timetables that are consistent with*
25 *the national priorities identified under section*

1 *399HH(a)(2) of the Public Health Service Act (as*
2 *added by section 3011).*

3 *(2) Avoidance of inefficient duplication of qual-*
4 *ity improvement efforts and resources, where prac-*
5 *ticable, and a streamlined process for quality report-*
6 *ing and compliance requirements.*

7 *(3) Assess alignment of quality efforts in the*
8 *public sector with private sector initiatives.*

9 *(c) COMPOSITION.—*

10 *(1) IN GENERAL.—The Working Group shall be*
11 *composed of senior level representatives of—*

12 *(A) the Department of Health and Human*
13 *Services;*

14 *(B) the Centers for Medicare & Medicaid*
15 *Services;*

16 *(C) the National Institutes of Health;*

17 *(D) the Centers for Disease Control and*
18 *Prevention;*

19 *(E) the Food and Drug Administration;*

20 *(F) the Health Resources and Services Ad-*
21 *ministration;*

22 *(G) the Agency for Healthcare Research and*
23 *Quality;*

24 *(H) the Office of the National Coordinator*
25 *for Health Information Technology;*

1 (I) *the Substance Abuse and Mental Health*
2 *Services Administration;*

3 (J) *the Administration for Children and*
4 *Families;*

5 (K) *the Department of Commerce;*

6 (L) *the Office of Management and Budget;*

7 (M) *the United States Coast Guard;*

8 (N) *the Federal Bureau of Prisons;*

9 (O) *the National Highway Traffic Safety*
10 *Administration;*

11 (P) *the Federal Trade Commission;*

12 (Q) *the Social Security Administration;*

13 (R) *the Department of Labor;*

14 (S) *the United States Office of Personnel*
15 *Management;*

16 (T) *the Department of Defense;*

17 (U) *the Department of Education;*

18 (V) *the Department of Veterans Affairs;*

19 (W) *the Veterans Health Administration;*

20 *and*

21 (X) *any other Federal agencies and depart-*
22 *ments with activities relating to improving*
23 *health care quality and safety, as determined by*
24 *the President.*

25 (2) *CHAIR AND VICE-CHAIR.—*

1 (A) *CHAIR.*—*The Working Group shall be*
2 *chaired by the Secretary of Health and Human*
3 *Services.*

4 (B) *VICE CHAIR.*—*Members of the Working*
5 *Group, other than the Secretary of Health and*
6 *Human Services, shall serve as Vice Chair of the*
7 *Group on a rotating basis, as determined by the*
8 *Group.*

9 (d) *REPORT TO CONGRESS.*—*Not later than December*
10 *31, 2010, and annually thereafter, the Working Group shall*
11 *submit to the relevant Committees of Congress, and make*
12 *public on an Internet website, a report describing the*
13 *progress and recommendations of the Working Group in*
14 *meeting the goals described in subsection (b).*

15 **SEC. 3013. QUALITY MEASURE DEVELOPMENT.**

16 (a) *PUBLIC HEALTH SERVICE ACT.*—*Title IX of the*
17 *Public Health Service Act (42 U.S.C. 299 et seq.) is amend-*
18 *ed—*

19 (1) *by redesignating part D as part E;*

20 (2) *by redesignating sections 931 through 938 as*
21 *sections 941 through 948, respectively;*

22 (3) *in section 948(1), as so redesignated, by*
23 *striking “931” and inserting “941”; and*

24 (4) *by inserting after section 926 the following:*

1 **“PART D—HEALTH CARE QUALITY IMPROVEMENT**

2 **“Subpart I—Quality Measure Development**

3 **“SEC. 931. QUALITY MEASURE DEVELOPMENT.**

4 “(a) *QUALITY MEASURE.*—*In this subpart, the term*
5 *‘quality measure’ means a standard for measuring the per-*
6 *formance and improvement of population health or of*
7 *health plans, providers of services, and other clinicians in*
8 *the delivery of health care services.*

9 “(b) *IDENTIFICATION OF QUALITY MEASURES.*—

10 “(1) *IDENTIFICATION.*—*The Secretary, in con-*
11 *sultation with the Director of the Agency for*
12 *Healthcare Research and Quality and the Adminis-*
13 *trator of the Centers for Medicare & Medicaid Serv-*
14 *ices, shall identify, not less often than triennially,*
15 *gaps where no quality measures exist and existing*
16 *quality measures that need improvement, updating,*
17 *or expansion, consistent with the national strategy*
18 *under section 399HH, to the extent available, for use*
19 *in Federal health programs. In identifying such gaps*
20 *and existing quality measures that need improvement,*
21 *the Secretary shall take into consideration—*

22 “(A) *the gaps identified by the entity with*
23 *a contract under section 1890(a) of the Social*
24 *Security Act and other stakeholders;*

1 “(B) *quality measures identified by the pe-*
2 *diatric quality measures program under section*
3 *1139A of the Social Security Act; and*

4 “(C) *quality measures identified through*
5 *the Medicaid Quality Measurement Program*
6 *under section 1139B of the Social Security Act.*

7 “(2) *PUBLICATION.—The Secretary shall make*
8 *available to the public on an Internet website a report*
9 *on any gaps identified under paragraph (1) and the*
10 *process used to make such identification.*

11 “(c) *GRANTS OR CONTRACTS FOR QUALITY MEASURE*
12 *DEVELOPMENT.—*

13 “(1) *IN GENERAL.—The Secretary shall award*
14 *grants, contracts, or intergovernmental agreements to*
15 *eligible entities for purposes of developing, improving,*
16 *updating, or expanding quality measures identified*
17 *under subsection (b).*

18 “(2) *PRIORITIZATION IN THE DEVELOPMENT OF*
19 *QUALITY MEASURES.—In awarding grants, contracts,*
20 *or agreements under this subsection, the Secretary*
21 *shall give priority to the development of quality meas-*
22 *ures that allow the assessment of—*

23 “(A) *health outcomes and functional status*
24 *of patients;*

1 “(B) the management and coordination of
2 health care across episodes of care and care tran-
3 sitions for patients across the continuum of pro-
4 viders, health care settings, and health plans;

5 “(C) the experience, quality, and use of in-
6 formation provided to and used by patients,
7 caregivers, and authorized representatives to in-
8 form decisionmaking about treatment options,
9 including the use of shared decisionmaking tools
10 and preference sensitive care (as defined in sec-
11 tion 936);

12 “(D) the meaningful use of health informa-
13 tion technology;

14 “(E) the safety, effectiveness, patient-
15 centeredness, appropriateness, and timeliness of
16 care;

17 “(F) the efficiency of care;

18 “(G) the equity of health services and health
19 disparities across health disparity populations
20 (as defined in section 485E) and geographic
21 areas;

22 “(H) patient experience and satisfaction;

23 “(I) the use of innovative strategies and
24 methodologies identified under section 933; and

1 “(J) other areas determined appropriate by
2 the Secretary.

3 “(3) *ELIGIBLE ENTITIES.*—To be eligible for a
4 grant or contract under this subsection, an entity
5 shall—

6 “(A) have demonstrated expertise and ca-
7 pacity in the development and evaluation of
8 quality measures;

9 “(B) have adopted procedures to include in
10 the quality measure development process—

11 “(i) the views of those providers or
12 payers whose performance will be assessed
13 by the measure; and

14 “(ii) the views of other parties who
15 also will use the quality measures (such as
16 patients, consumers, and health care pur-
17 chasers);

18 “(C) collaborate with the entity with a con-
19 tract under section 1890(a) of the Social Secu-
20 rity Act and other stakeholders, as practicable,
21 and the Secretary so that quality measures devel-
22 oped by the eligible entity will meet the require-
23 ments to be considered for endorsement by the
24 entity with a contract under such section
25 1890(a);

1 “(D) have transparent policies regarding
2 governance and conflicts of interest; and

3 “(E) submit an application to the Secretary
4 at such time and in such manner, as the Sec-
5 retary may require.

6 “(4) USE OF FUNDS.—An entity that receives a
7 grant, contract, or agreement under this subsection
8 shall use such award to develop quality measures that
9 meet the following requirements:

10 “(A) Such measures support measures re-
11 quired to be reported under the Social Security
12 Act, where applicable, and in support of gaps
13 and existing quality measures that need im-
14 provement, as described in subsection (b)(1)(A).

15 “(B) Such measures support measures de-
16 veloped under section 1139A of the Social Secu-
17 rity Act and the Medicaid Quality Measurement
18 Program under section 1139B of such Act, where
19 applicable.

20 “(C) To the extent practicable, data on such
21 quality measures is able to be collected using
22 health information technologies.

23 “(D) Each quality measure is free of charge
24 to users of such measure.

1 “(E) Each quality measure is publicly
2 available on an Internet website.

3 “(d) OTHER ACTIVITIES BY THE SECRETARY.—The
4 Secretary may use amounts available under this section to
5 update and test, where applicable, quality measures en-
6 dorsed by the entity with a contract under section 1890(a)
7 of the Social Security Act or adopted by the Secretary.

8 “(e) COORDINATION OF GRANTS.—The Secretary shall
9 ensure that grants or contracts awarded under this section
10 are coordinated with grants and contracts awarded under
11 sections 1139A(5) and 1139B(4)(A) of the Social Security
12 Act.”.

13 (b) SOCIAL SECURITY ACT.—Section 1890A of the So-
14 cial Security Act, as added by section 3014(b), is amended
15 by adding at the end the following new subsection:

16 “(e) DEVELOPMENT OF QUALITY MEASURES.—The
17 Administrator of the Center for Medicare & Medicaid Serv-
18 ices shall through contracts develop quality measures (as
19 determined appropriate by the Administrator) for use
20 under this Act. In developing such measures, the Adminis-
21 trator shall consult with the Director of the Agency for
22 Healthcare Research and Quality.”.

23 (c) FUNDING.—There are authorized to be appro-
24 priated to the Secretary of Health and Human Services to
25 carry out this section, \$75,000,000 for each of fiscal years

1 2010 through 2014. Of the amounts appropriated under the
2 preceding sentence in a fiscal year, not less than 50 percent
3 of such amounts shall be used pursuant to subsection (e)
4 of section 1890A of the Social Security Act, as added by
5 subsection (b), with respect to programs under such Act.
6 Amounts appropriated under this subsection for a fiscal
7 year shall remain available until expended.

8 **SEC. 3014. QUALITY MEASUREMENT.**

9 (a) *NEW DUTIES FOR CONSENSUS-BASED ENTITY.*—

10 (1) *MULTI-STAKEHOLDER GROUP INPUT.*—*Sec-*
11 *tion 1890(b) of the Social Security Act (42 U.S.C.*
12 *1395aaa(b)), as amended by section 3003, is amended*
13 *by adding at the end the following new paragraphs:*

14 “(7) *CONVENING MULTI-STAKEHOLDER*
15 *GROUPS.*—

16 “(A) *IN GENERAL.*—*The entity shall con-*
17 *vene multi-stakeholder groups to provide input*
18 *on—*

19 “(i) *the selection of quality measures*
20 *described in subparagraph (B), from*
21 *among—*

22 “(I) *such measures that have been*
23 *endorsed by the entity; and*

24 “(II) *such measures that have not*
25 *been considered for endorsement by*

1 *such entity but are used or proposed to*
2 *be used by the Secretary for the collec-*
3 *tion or reporting of quality measures;*
4 *and*

5 “(ii) *national priorities (as identified*
6 *under section 399HH of the Public Health*
7 *Service Act) for improvement in population*
8 *health and in the delivery of health care*
9 *services for consideration under the national*
10 *strategy established under section 399HH of*
11 *the Public Health Service Act.*

12 “(B) *QUALITY MEASURES.—*

13 “(i) *IN GENERAL.—Subject to clause*
14 *(ii), the quality measures described in this*
15 *subparagraph are quality measures—*

16 “(I) *for use pursuant to sections*
17 *1814(i)(5)(D), 1833(i)(7), 1833(t)(17),*
18 *1848(k)(2)(C), 1866(k)(3),*
19 *1881(h)(2)(A)(iii), 1886(b)(3)(B)(viii),*
20 *1886(j)(7)(D), 1886(m)(5)(D),*
21 *1886(o)(2), and 1895(b)(3)(B)(v);*

22 “(II) *for use in reporting per-*
23 *formance information to the public;*
24 *and*

1 “(III) for use in health care pro-
2 grams other than for use under this
3 Act.

4 “(ii) *EXCLUSION.*—Data sets (such as
5 the outcome and assessment information set
6 for home health services and the minimum
7 data set for skilled nursing facility services)
8 that are used for purposes of classification
9 systems used in establishing payment rates
10 under this title shall not be quality meas-
11 ures described in this subparagraph.

12 “(C) *REQUIREMENT FOR TRANSPARENCY IN*
13 *PROCESS.*—

14 “(i) *IN GENERAL.*—In convening
15 multi-stakeholder groups under subpara-
16 graph (A) with respect to the selection of
17 quality measures, the entity shall provide
18 for an open and transparent process for the
19 activities conducted pursuant to such con-
20 vening.

21 “(ii) *SELECTION OF ORGANIZATIONS*
22 *PARTICIPATING IN MULTI-STAKEHOLDER*
23 *GROUPS.*—The process described in clause
24 (i) shall ensure that the selection of rep-
25 resentatives comprising such groups pro-

1 *vides for public nominations for, and the*
2 *opportunity for public comment on, such se-*
3 *lection.*

4 “(D) *MULTI-STAKEHOLDER GROUP DE-*
5 *FINED.—In this paragraph, the term ‘multi-*
6 *stakeholder group’ means, with respect to a qual-*
7 *ity measure, a voluntary collaborative of organi-*
8 *zations representing a broad group of stake-*
9 *holders interested in or affected by the use of*
10 *such quality measure.*

11 “(8) *TRANSMISSION OF MULTI-STAKEHOLDER*
12 *INPUT.—Not later than February 1 of each year (be-*
13 *ginning with 2012), the entity shall transmit to the*
14 *Secretary the input of multi-stakeholder groups pro-*
15 *vided under paragraph (7).”.*

16 (2) *ANNUAL REPORT.—Section 1890(b)(5)(A) of*
17 *the Social Security Act (42 U.S.C. 1395aaa(b)(5)(A))*
18 *is amended—*

19 (A) *in clause (ii), by striking “and” at the*
20 *end;*

21 (B) *in clause (iii), by striking the period at*
22 *the end and inserting a semicolon; and*

23 (C) *by adding at the end the following new*
24 *clauses:*

1 *following steps occur with respect to the selection of quality*
2 *measures described in section 1890(b)(7)(B):*

3 “(1) *INPUT.—Pursuant to section 1890(b)(7), the*
4 *entity with a contract under section 1890 shall con-*
5 *vene multi-stakeholder groups to provide input to the*
6 *Secretary on the selection of quality measures de-*
7 *scribed in subparagraph (B) of such paragraph.*

8 “(2) *PUBLIC AVAILABILITY OF MEASURES CON-*
9 *SIDERED FOR SELECTION.—Not later than December*
10 *1 of each year (beginning with 2011), the Secretary*
11 *shall make available to the public a list of quality*
12 *measures described in section 1890(b)(7)(B) that the*
13 *Secretary is considering under this title.*

14 “(3) *TRANSMISSION OF MULTI-STAKEHOLDER*
15 *INPUT.—Pursuant to section 1890(b)(8), not later*
16 *than February 1 of each year (beginning with 2012),*
17 *the entity shall transmit to the Secretary the input of*
18 *multi-stakeholder groups described in paragraph (1).*

19 “(4) *CONSIDERATION OF MULTI-STAKEHOLDER*
20 *INPUT.—The Secretary shall take into consideration*
21 *the input from multi-stakeholder groups described in*
22 *paragraph (1) in selecting quality measures described*
23 *in section 1890(b)(7)(B) that have been endorsed by*
24 *the entity with a contract under section 1890 and*
25 *measures that have not been endorsed by such entity.*

1 “(5) *RATIONALE FOR USE OF QUALITY MEAS-*
2 *URES.—The Secretary shall publish in the Federal*
3 *Register the rationale for the use of any quality meas-*
4 *ure described in section 1890(b)(7)(B) that has not*
5 *been endorsed by the entity with a contract under sec-*
6 *tion 1890.*

7 “(6) *ASSESSMENT OF IMPACT.—Not later than*
8 *March 1, 2012, and at least once every three years*
9 *thereafter, the Secretary shall—*

10 “(A) *conduct an assessment of the quality*
11 *impact of the use of endorsed measures described*
12 *in section 1890(b)(7)(B); and*

13 “(B) *make such assessment available to the*
14 *public.*

15 “(b) *PROCESS FOR DISSEMINATION OF MEASURES*
16 *USED BY THE SECRETARY.—*

17 “(1) *IN GENERAL.—The Secretary shall establish*
18 *a process for disseminating quality measures used by*
19 *the Secretary. Such process shall include the fol-*
20 *lowing:*

21 “(A) *The incorporation of such measures,*
22 *where applicable, in workforce programs, train-*
23 *ing curricula, and any other means of dissemi-*
24 *nation determined appropriate by the Secretary.*

1 “(B) *The dissemination of such quality*
2 *measures through the national strategy developed*
3 *under section 399HH of the Public Health Serv-*
4 *ice Act.*

5 “(2) *EXISTING METHODS.—To the extent prac-*
6 *ticable, the Secretary shall utilize and expand exist-*
7 *ing dissemination methods in disseminating quality*
8 *measures under the process established under para-*
9 *graph (1).*

10 “(c) *REVIEW OF QUALITY MEASURES USED BY THE*
11 *SECRETARY.—*

12 “(1) *IN GENERAL.—The Secretary shall—*

13 “(A) *periodically (but in no case less often*
14 *than once every 3 years) review quality measures*
15 *described in section 1890(b)(7)(B); and*

16 “(B) *with respect to each such measure, de-*
17 *termine whether to—*

18 “(i) *maintain the use of such measure;*

19 *or*

20 “(ii) *phase out such measure.*

21 “(2) *CONSIDERATIONS.—In conducting the re-*
22 *view under paragraph (1), the Secretary shall take*
23 *steps to—*

24 “(A) *seek to avoid duplication of measures*
25 *used; and*

1 “(B) take into consideration current inno-
2 vative methodologies and strategies for quality
3 improvement practices in the delivery of health
4 care services that represent best practices for
5 such quality improvement and measures en-
6 dorsed by the entity with a contract under sec-
7 tion 1890 since the previous review by the Sec-
8 retary.

9 “(d) *RULE OF CONSTRUCTION.*—Nothing in this sec-
10 tion shall preclude a State from using the quality measures
11 identified under sections 1139A and 1139B.”.

12 (c) *FUNDING.*—For purposes of carrying out the
13 amendments made by this section, the Secretary shall pro-
14 vide for the transfer, from the Federal Hospital Insurance
15 Trust Fund under section 1817 of the Social Security Act
16 (42 U.S.C. 1395i) and the Federal Supplementary Medical
17 Insurance Trust Fund under section 1841 of such Act (42
18 U.S.C. 1395t), in such proportion as the Secretary deter-
19 mines appropriate, of \$20,000,000, to the Centers for Medi-
20 care & Medicaid Services Program Management Account
21 for each of fiscal years 2010 through 2014. Amounts trans-
22 ferred under the preceding sentence shall remain available
23 until expended.

1 **SEC. 3015. DATA COLLECTION; PUBLIC REPORTING.**

2 *Title III of the Public Health Service Act (42 U.S.C.*
3 *241 et seq.), as amended by section 3011, is further amend-*
4 *ed by adding at the end the following:*

5 **“SEC. 399II. COLLECTION AND ANALYSIS OF DATA FOR**
6 **QUALITY AND RESOURCE USE MEASURES.**

7 *“(a) IN GENERAL.—The Secretary shall collect and ag-*
8 *gregate consistent data on quality and resource use meas-*
9 *ures from information systems used to support health care*
10 *delivery to implement the public reporting of performance*
11 *information, as described in section 399JJ, and may award*
12 *grants or contracts for this purpose. The Secretary shall en-*
13 *sure that such collection, aggregation, and analysis systems*
14 *span an increasingly broad range of patient populations,*
15 *providers, and geographic areas over time.*

16 *“(b) GRANTS OR CONTRACTS FOR DATA COLLEC-*
17 *TION.—*

18 *“(1) IN GENERAL.—The Secretary may award*
19 *grants or contracts to eligible entities to support new,*
20 *or improve existing, efforts to collect and aggregate*
21 *quality and resource use measures described under*
22 *subsection (c).*

23 *“(2) ELIGIBLE ENTITIES.—To be eligible for a*
24 *grant or contract under this subsection, an entity*
25 *shall—*

26 *“(A) be—*

1 “(i) a multi-stakeholder entity that co-
2 ordinates the development of methods and
3 implementation plans for the consistent re-
4 porting of summary quality and cost infor-
5 mation;

6 “(ii) an entity capable of submitting
7 such summary data for a particular popu-
8 lation and providers, such as a disease reg-
9 istry, regional collaboration, health plan
10 collaboration, or other population-wide
11 source; or

12 “(iii) a Federal Indian Health Service
13 program or a health program operated by
14 an Indian tribe (as defined in section 4 of
15 the Indian Health Care Improvement Act);

16 “(B) promote the use of the systems that
17 provide data to improve and coordinate patient
18 care;

19 “(C) support the provision of timely, con-
20 sistent quality and resource use information to
21 health care providers, and other groups and or-
22 ganizations as appropriate, with an opportunity
23 for providers to correct inaccurate measures; and

24 “(D) agree to report, as determined by the
25 Secretary, measures on quality and resource use

1 to the public in accordance with the public re-
2 porting process established under section 399JJ.

3 “(c) *CONSISTENT DATA AGGREGATION.*—The Sec-
4 retary may award grants or contracts under this section
5 only to entities that enable summary data that can be inte-
6 grated and compared across multiple sources. The Secretary
7 shall provide standards for the protection of the security
8 and privacy of patient data.

9 “(d) *MATCHING FUNDS.*—The Secretary may not
10 award a grant or contract under this section to an entity
11 unless the entity agrees that it will make available (directly
12 or through contributions from other public or private enti-
13 ties) non-Federal contributions toward the activities to be
14 carried out under the grant or contract in an amount equal
15 to \$1 for each \$5 of Federal funds provided under the grant
16 or contract. Such non-Federal matching funds may be pro-
17 vided directly or through donations from public or private
18 entities and may be in cash or in-kind, fairly evaluated,
19 including plant, equipment, or services.

20 “(e) *AUTHORIZATION OF APPROPRIATIONS.*—To carry
21 out this section, there are authorized to be appropriated
22 such sums as may be necessary for fiscal years 2010 through
23 2014.

1 **“SEC. 399JJ. PUBLIC REPORTING OF PERFORMANCE INFOR-**
2 **MATION.**

3 “(a) *DEVELOPMENT OF PERFORMANCE WEBSITES.—*
4 *The Secretary shall make available to the public, through*
5 *standardized Internet websites, performance information*
6 *summarizing data on quality measures. Such information*
7 *shall be tailored to respond to the differing needs of hos-*
8 *pitals and other institutional health care providers, physi-*
9 *cians and other clinicians, patients, consumers, researchers,*
10 *policymakers, States, and other stakeholders, as the Sec-*
11 *retary may specify.*

12 “(b) *INFORMATION ON CONDITIONS.—The performance*
13 *information made publicly available on an Internet*
14 *website, as described in subsection (a), shall include infor-*
15 *mation regarding clinical conditions to the extent such in-*
16 *formation is available, and the information shall, where ap-*
17 *propriate, be provider-specific and sufficiently*
18 *disaggregated and specific to meet the needs of patients with*
19 *different clinical conditions.*

20 “(c) *CONSULTATION.—*

21 “(1) *IN GENERAL.—In carrying out this section,*
22 *the Secretary shall consult with the entity with a con-*
23 *tract under section 1890(a) of the Social Security*
24 *Act, and other entities, as appropriate, to determine*
25 *the type of information that is useful to stakeholders*

1 *and the format that best facilitates use of the reports*
2 *and of performance reporting Internet websites.*

3 “(2) *CONSULTATION WITH STAKEHOLDERS.*—*The*
4 *entity with a contract under section 1890(a) of the*
5 *Social Security Act shall convene multi-stakeholder*
6 *groups, as described in such section, to review the de-*
7 *sign and format of each Internet website made avail-*
8 *able under subsection (a) and shall transmit to the*
9 *Secretary the views of such multi-stakeholder groups*
10 *with respect to each such design and format.*

11 “(d) *COORDINATION.*—*Where appropriate, the Sec-*
12 *retary shall coordinate the manner in which data are pre-*
13 *sented through Internet websites described in subsection (a)*
14 *and for public reporting of other quality measures by the*
15 *Secretary, including such quality measures under title*
16 *XVIII of the Social Security Act.*

17 “(e) *AUTHORIZATION OF APPROPRIATIONS.*—*To carry*
18 *out this section, there are authorized to be appropriated*
19 *such sums as may be necessary for fiscal years 2010 through*
20 *2014.”.*

1 **PART III—ENCOURAGING DEVELOPMENT OF NEW**
2 **PATIENT CARE MODELS**

3 **SEC. 3021. ESTABLISHMENT OF CENTER FOR MEDICARE**
4 **AND MEDICAID INNOVATION WITHIN CMS.**

5 (a) *IN GENERAL.*—*Title XI of the Social Security Act*
6 *is amended by inserting after section 1115 the following*
7 *new section:*

8 “*CENTER FOR MEDICARE AND MEDICAID INNOVATION*

9 “*SEC. 1115A. (a) CENTER FOR MEDICARE AND MED-*
10 *ICAID INNOVATION ESTABLISHED.*—

11 “*(1) IN GENERAL.*—*There is created within the*
12 *Centers for Medicare & Medicaid Services a Center*
13 *for Medicare and Medicaid Innovation (in this sec-*
14 *tion referred to as the ‘CMI’) to carry out the duties*
15 *described in this section. The purpose of the CMI is*
16 *to test innovative payment and service delivery mod-*
17 *els to reduce program expenditures under the applica-*
18 *ble titles while preserving or enhancing the quality of*
19 *care furnished to individuals under such titles. In se-*
20 *lecting such models, the Secretary shall give pref-*
21 *erence to models that also improve the coordination,*
22 *quality, and efficiency of health care services fur-*
23 *nished to applicable individuals defined in paragraph*
24 *(4)(A).*

1 “(2) *DEADLINE.*—*The Secretary shall ensure*
2 *that the CMI is carrying out the duties described in*
3 *this section by not later than January 1, 2011.*

4 “(3) *CONSULTATION.*—*In carrying out the duties*
5 *under this section, the CMI shall consult representa-*
6 *tives of relevant Federal agencies, and clinical and*
7 *analytical experts with expertise in medicine and*
8 *health care management. The CMI shall use open door*
9 *forums or other mechanisms to seek input from inter-*
10 *ested parties.*

11 “(4) *DEFINITIONS.*—*In this section:*

12 “(A) *APPLICABLE INDIVIDUAL.*—*The term*
13 *‘applicable individual’ means—*

14 “(i) *an individual who is entitled to,*
15 *or enrolled for, benefits under part A of title*
16 *XVIII or enrolled for benefits under part B*
17 *of such title;*

18 “(ii) *an individual who is eligible for*
19 *medical assistance under title XIX, under a*
20 *State plan or waiver; or*

21 “(iii) *an individual who meets the cri-*
22 *teria of both clauses (i) and (ii).*

23 “(B) *APPLICABLE TITLE.*—*The term ‘appli-*
24 *cable title’ means title XVIII, title XIX, or both.*

25 “(b) *TESTING OF MODELS (PHASE I).*—

1 “(1) *IN GENERAL.*—*The CMI shall test payment*
2 *and service delivery models in accordance with selec-*
3 *tion criteria under paragraph (2) to determine the ef-*
4 *fect of applying such models under the applicable title*
5 *(as defined in subsection (a)(4)(B)) on program ex-*
6 *penditures under such titles and the quality of care*
7 *received by individuals receiving benefits under such*
8 *title.*

9 “(2) *SELECTION OF MODELS TO BE TESTED.*—

10 “(A) *IN GENERAL.*—*The Secretary shall se-*
11 *lect models to be tested from models where the*
12 *Secretary determines that there is evidence that*
13 *the model addresses a defined population for*
14 *which there are deficits in care leading to poor*
15 *clinical outcomes or potentially avoidable ex-*
16 *penditures. The models selected under the pre-*
17 *ceding sentence may include the models described*
18 *in subparagraph (B).*

19 “(B) *OPPORTUNITIES.*—*The models de-*
20 *scribed in this subparagraph are the following*
21 *models:*

22 “(i) *Promoting broad payment and*
23 *practice reform in primary care, including*
24 *patient-centered medical home models for*
25 *high-need applicable individuals, medical*

1 *homes that address women’s unique health*
2 *care needs, and models that transition pri-*
3 *mary care practices away from fee-for-serv-*
4 *ice based reimbursement and toward com-*
5 *prehensive payment or salary-based pay-*
6 *ment.*

7 “(ii) *Contracting directly with groups*
8 *of providers of services and suppliers to pro-*
9 *mote innovative care delivery models, such*
10 *as through risk-based comprehensive pay-*
11 *ment or salary-based payment.*

12 “(iii) *Utilizing geriatric assessments*
13 *and comprehensive care plans to coordinate*
14 *the care (including through interdiscipli-*
15 *nary teams) of applicable individuals with*
16 *multiple chronic conditions and at least one*
17 *of the following:*

18 “(I) *An inability to perform 2 or*
19 *more activities of daily living.*

20 “(II) *Cognitive impairment, in-*
21 *cluding dementia.*

22 “(iv) *Promote care coordination be-*
23 *tween providers of services and suppliers*
24 *that transition health care providers away*

1 *from fee-for-service based reimbursement*
2 *and toward salary-based payment.*

3 “(v) *Supporting care coordination for*
4 *chronically-ill applicable individuals at*
5 *high risk of hospitalization through a health*
6 *information technology-enabled provider*
7 *network that includes care coordinators, a*
8 *chronic disease registry, and home tele-*
9 *health technology.*

10 “(vi) *Varying payment to physicians*
11 *who order advanced diagnostic imaging*
12 *services (as defined in section*
13 *1834(e)(1)(B)) according to the physician’s*
14 *adherence to appropriateness criteria for the*
15 *ordering of such services, as determined in*
16 *consultation with physician specialty*
17 *groups and other relevant stakeholders.*

18 “(vii) *Utilizing medication therapy*
19 *management services, such as those de-*
20 *scribed in section 935 of the Public Health*
21 *Service Act.*

22 “(viii) *Establishing community-based*
23 *health teams to support small-practice med-*
24 *ical homes by assisting the primary care*
25 *practitioner in chronic care management,*

1 including patient self-management, activi-
2 ties.

3 “(ix) *Assisting applicable individuals*
4 *in making informed health care choices by*
5 *paying providers of services and suppliers*
6 *for using patient decision-support tools, in-*
7 *cluding tools that meet the standards devel-*
8 *oped and identified under section*
9 *936(c)(2)(A) of the Public Health Service*
10 *Act, that improve applicable individual and*
11 *caregiver understanding of medical treat-*
12 *ment options.*

13 “(x) *Allowing States to test and evalu-*
14 *ate fully integrating care for dual eligible*
15 *individuals in the State, including the*
16 *management and oversight of all funds*
17 *under the applicable titles with respect to*
18 *such individuals.*

19 “(xi) *Allowing States to test and evalu-*
20 *ate systems of all-payer payment reform for*
21 *the medical care of residents of the State,*
22 *including dual eligible individuals.*

23 “(xii) *Aligning nationally recognized,*
24 *evidence-based guidelines of cancer care*
25 *with payment incentives under title XVIII*

1 *in the areas of treatment planning and fol-*
2 *low-up care planning for applicable indi-*
3 *viduals described in clause (i) or (iii) of*
4 *subsection (a)(4)(A) with cancer, including*
5 *the identification of gaps in applicable*
6 *quality measures.*

7 *“(xiii) Improving post-acute care*
8 *through continuing care hospitals that offer*
9 *inpatient rehabilitation, long-term care hos-*
10 *pitals, and home health or skilled nursing*
11 *care during an inpatient stay and the 30*
12 *days immediately following discharge.*

13 *“(xiv) Funding home health providers*
14 *who offer chronic care management services*
15 *to applicable individuals in cooperation*
16 *with interdisciplinary teams.*

17 *“(xv) Promoting improved quality and*
18 *reduced cost by developing a collaborative of*
19 *high-quality, low-cost health care institu-*
20 *tions that is responsible for—*

21 *“(I) developing, documenting, and*
22 *disseminating best practices and prov-*
23 *en care methods;*

24 *“(II) implementing such best*
25 *practices and proven care methods*

1 *within such institutions to demonstrate*
2 *further improvements in quality and*
3 *efficiency; and*

4 “(III) *providing assistance to*
5 *other health care institutions on how*
6 *best to employ such best practices and*
7 *proven care methods to improve health*
8 *care quality and lower costs.*

9 “(xvi) *Facilitate inpatient care, in-*
10 *cluding intensive care, of hospitalized appli-*
11 *cable individuals at their local hospital*
12 *through the use of electronic monitoring by*
13 *specialists, including intensivists and crit-*
14 *ical care specialists, based at integrated*
15 *health systems.*

16 “(xvii) *Promoting greater efficiencies*
17 *and timely access to outpatient services*
18 *(such as outpatient physical therapy serv-*
19 *ices) through models that do not require a*
20 *physician or other health professional to*
21 *refer the service or be involved in estab-*
22 *lishing the plan of care for the service, when*
23 *such service is furnished by a health profes-*
24 *sional who has the authority to furnish the*
25 *service under existing State law.*

1 “(xviii) *Establishing comprehensive*
2 *payments to Healthcare Innovation Zones,*
3 *consisting of groups of providers that in-*
4 *clude a teaching hospital, physicians, and*
5 *other clinical entities, that, through their*
6 *structure, operations, and joint-activity de-*
7 *liver a full spectrum of integrated and com-*
8 *prehensive health care services to applicable*
9 *individuals while also incorporating inno-*
10 *vative methods for the clinical training of*
11 *future health care professionals.*

12 “(C) *ADDITIONAL FACTORS FOR CONSIDER-*
13 *ATION.—In selecting models for testing under*
14 *subparagraph (A), the CMI may consider the fol-*
15 *lowing additional factors:*

16 “(i) *Whether the model includes a reg-*
17 *ular process for monitoring and updating*
18 *patient care plans in a manner that is con-*
19 *sistent with the needs and preferences of ap-*
20 *plicable individuals.*

21 “(ii) *Whether the model places the ap-*
22 *plicable individual, including family mem-*
23 *bers and other informal caregivers of the*
24 *applicable individual, at the center of the*
25 *care team of the applicable individual.*

1 “(iii) Whether the model provides for
2 in-person contact with applicable individ-
3 uals.

4 “(iv) Whether the model utilizes tech-
5 nology, such as electronic health records and
6 patient-based remote monitoring systems, to
7 coordinate care over time and across set-
8 tings.

9 “(v) Whether the model provides for the
10 maintenance of a close relationship between
11 care coordinators, primary care practi-
12 tioners, specialist physicians, community-
13 based organizations, and other providers of
14 services and suppliers.

15 “(vi) Whether the model relies on a
16 team-based approach to interventions, such
17 as comprehensive care assessments, care
18 planning, and self-management coaching.

19 “(vii) Whether, under the model, pro-
20 viders of services and suppliers are able to
21 share information with patients, caregivers,
22 and other providers of services and sup-
23 pliers on a real time basis.

24 “(3) BUDGET NEUTRALITY.—

1 “(A) *INITIAL PERIOD.*—*The Secretary shall*
2 *not require, as a condition for testing a model*
3 *under paragraph (1), that the design of such*
4 *model ensure that such model is budget neutral*
5 *initially with respect to expenditures under the*
6 *applicable title.*

7 “(B) *TERMINATION OR MODIFICATION.*—*The*
8 *Secretary shall terminate or modify the design*
9 *and implementation of a model unless the Sec-*
10 *retary determines (and the Chief Actuary of the*
11 *Centers for Medicare & Medicaid Services, with*
12 *respect to program spending under the applica-*
13 *ble title, certifies), after testing has begun, that*
14 *the model is expected to—*

15 “(i) *improve the quality of care (as de-*
16 *termined by the Administrator of the Cen-*
17 *ters for Medicare & Medicaid Services)*
18 *without increasing spending under the ap-*
19 *plicable title;*

20 “(ii) *reduce spending under the appli-*
21 *cable title without reducing the quality of*
22 *care; or*

23 “(iii) *improve the quality of care and*
24 *reduce spending.*

1 *Such termination may occur at any time after*
2 *such testing has begun and before completion of*
3 *the testing.*

4 “(4) *EVALUATION.*—

5 “(A) *IN GENERAL.*—*The Secretary shall*
6 *conduct an evaluation of each model tested under*
7 *this subsection. Such evaluation shall include an*
8 *analysis of—*

9 “(i) *the quality of care furnished under*
10 *the model, including the measurement of*
11 *patient-level outcomes and patient-*
12 *centeredness criteria determined appro-*
13 *priate by the Secretary; and*

14 “(ii) *the changes in spending under the*
15 *applicable titles by reason of the model.*

16 “(B) *INFORMATION.*—*The Secretary shall*
17 *make the results of each evaluation under this*
18 *paragraph available to the public in a timely*
19 *fashion and may establish requirements for*
20 *States and other entities participating in the*
21 *testing of models under this section to collect and*
22 *report information that the Secretary determines*
23 *is necessary to monitor and evaluate such mod-*
24 *els.*

1 “(c) *EXPANSION OF MODELS (PHASE II).*—Taking
2 *into account the evaluation under subsection (b)(4), the Sec-*
3 *retary may, through rulemaking, expand (including imple-*
4 *mentation on a nationwide basis) the duration and the*
5 *scope of a model that is being tested under subsection (b)*
6 *or a demonstration project under section 1866C, to the ex-*
7 *tent determined appropriate by the Secretary, if—*

8 “(1) *the Secretary determines that such expan-*
9 *sion is expected to—*

10 “(A) *reduce spending under applicable title*
11 *without reducing the quality of care; or*

12 “(B) *improve the quality of care and reduce*
13 *spending; and*

14 “(2) *the Chief Actuary of the Centers for Medi-*
15 *care & Medicaid Services certifies that such expan-*
16 *sion would reduce program spending under applicable*
17 *titles.*

18 “(d) *IMPLEMENTATION.*—

19 “(1) *WAIVER AUTHORITY.*—*The Secretary may*
20 *waive such requirements of titles XI and XVIII and*
21 *of sections 1902(a)(1), 1902(a)(13), and*
22 *1903(m)(2)(A)(iii) as may be necessary solely for*
23 *purposes of carrying out this section with respect to*
24 *testing models described in subsection (b).*

1 “(2) *LIMITATIONS ON REVIEW.*—*There shall be*
2 *no administrative or judicial review under section*
3 *1869, section 1878, or otherwise of—*

4 “(A) *the selection of models for testing or*
5 *expansion under this section;*

6 “(B) *the selection of organizations, sites, or*
7 *participants to test those models selected;*

8 “(C) *the elements, parameters, scope, and*
9 *duration of such models for testing or dissemina-*
10 *tion;*

11 “(D) *determinations regarding budget neu-*
12 *trality under subsection (b)(3);*

13 “(E) *the termination or modification of the*
14 *design and implementation of a model under*
15 *subsection (b)(3)(B); and*

16 “(F) *determinations about expansion of the*
17 *duration and scope of a model under subsection*
18 *(c), including the determination that a model is*
19 *not expected to meet criteria described in para-*
20 *graph (1) or (2) of such subsection.*

21 “(3) *ADMINISTRATION.*—*Chapter 35 of title 44,*
22 *United States Code, shall not apply to the testing and*
23 *evaluation of models or expansion of such models*
24 *under this section.*

1 “(e) *APPLICATION TO CHIP.*—*The Center may carry*
2 *out activities under this section with respect to title XXI*
3 *in the same manner as provided under this section with*
4 *respect to the program under the applicable titles.*

5 “(f) *FUNDING.*—

6 “(1) *IN GENERAL.*—*There are appropriated,*
7 *from amounts in the Treasury not otherwise appro-*
8 *priated—*

9 “(A) *\$5,000,000 for the design, implementa-*
10 *tion, and evaluation of models under subsection*
11 *(b) for fiscal year 2010;*

12 “(B) *\$10,000,000,000 for the activities ini-*
13 *tiated under this section for the period of fiscal*
14 *years 2011 through 2019; and*

15 “(C) *the amount described in subparagraph*
16 *(B) for the activities initiated under this section*
17 *for each subsequent 10-year fiscal period (begin-*
18 *ning with the 10-year fiscal period beginning*
19 *with fiscal year 2020).*

20 *Amounts appropriated under the preceding sentence*
21 *shall remain available until expended.*

22 “(2) *USE OF CERTAIN FUNDS.*—*Out of amounts*
23 *appropriated under subparagraphs (B) and (C) of*
24 *paragraph (1), not less than \$25,000,000 shall be*

1 *made available each such fiscal year to design, imple-*
2 *ment, and evaluate models under subsection (b).*

3 “(g) *REPORT TO CONGRESS.*—*Beginning in 2012, and*
4 *not less than once every other year thereafter, the Secretary*
5 *shall submit to Congress a report on activities under this*
6 *section. Each such report shall describe the models tested*
7 *under subsection (b), including the number of individuals*
8 *described in subsection (a)(4)(A)(i) and of individuals de-*
9 *scribed in subsection (a)(4)(A)(ii) participating in such*
10 *models and payments made under applicable titles for serv-*
11 *ices on behalf of such individuals, any models chosen for*
12 *expansion under subsection (c), and the results from evalua-*
13 *tions under subsection (b)(4). In addition, each such report*
14 *shall provide such recommendations as the Secretary deter-*
15 *mines are appropriate for legislative action to facilitate the*
16 *development and expansion of successful payment models.”.*

17 (b) *MEDICAID CONFORMING AMENDMENT.*—*Section*
18 *1902(a) of the Social Security Act (42 U.S.C. 1396a(a)),*
19 *as amended by section 8002(b), is amended—*

20 (1) *in paragraph (81), by striking “and” at the*
21 *end;*

22 (2) *in paragraph (82), by striking the period at*
23 *the end and inserting “; and”; and*

24 (3) *by inserting after paragraph (82) the fol-*
25 *lowing new paragraph:*

1 “(83) provide for implementation of the payment
2 models specified by the Secretary under section
3 1115A(c) for implementation on a nationwide basis
4 unless the State demonstrates to the satisfaction of the
5 Secretary that implementation would not be adminis-
6 tratively feasible or appropriate to the health care de-
7 livery system of the State.”.

8 (c) *REVISIONS TO HEALTH CARE QUALITY DEM-*
9 *ONSTRATION PROGRAM.*—Subsections (b) and (f) of section
10 1866C of the Social Security Act (42 U.S.C. 1395cc–3) are
11 amended by striking “5-year” each place it appears.

12 **SEC. 3022. MEDICARE SHARED SAVINGS PROGRAM.**

13 *Title XVIII of the Social Security Act (42 U.S.C. 1395*
14 *et seq.) is amended by adding at the end the following new*
15 *section:*

16 “*SHARED SAVINGS PROGRAM*

17 “*SEC. 1899. (a) ESTABLISHMENT.*—

18 “(1) *IN GENERAL.*—Not later than January 1,
19 2012, the Secretary shall establish a shared savings
20 program (in this section referred to as the ‘program’)
21 that promotes accountability for a patient population
22 and coordinates items and services under parts A and
23 B, and encourages investment in infrastructure and
24 redesigned care processes for high quality and effi-
25 cient service delivery. Under such program—

1 “(A) groups of providers of services and
2 suppliers meeting criteria specified by the Sec-
3 retary may work together to manage and coordi-
4 nate care for Medicare fee-for-service bene-
5 ficiaries through an accountable care organiza-
6 tion (referred to in this section as an ‘ACO’);
7 and

8 “(B) ACOs that meet quality performance
9 standards established by the Secretary are eligi-
10 ble to receive payments for shared savings under
11 subsection (d)(2).

12 “(b) *ELIGIBLE ACOS.*—

13 “(1) *IN GENERAL.*—Subject to the succeeding
14 provisions of this subsection, as determined appro-
15 priate by the Secretary, the following groups of pro-
16 viders of services and suppliers which have established
17 a mechanism for shared governance are eligible to
18 participate as ACOs under the program under this
19 section:

20 “(A) ACO professionals in group practice
21 arrangements.

22 “(B) Networks of individual practices of
23 ACO professionals.

24 “(C) Partnerships or joint venture arrange-
25 ments between hospitals and ACO professionals.

1 “(D) *Hospitals employing ACO profes-*
2 *sionals.*

3 “(E) *Such other groups of providers of serv-*
4 *ices and suppliers as the Secretary determines*
5 *appropriate.*

6 “(2) *REQUIREMENTS.—An ACO shall meet the*
7 *following requirements:*

8 “(A) *The ACO shall be willing to become*
9 *accountable for the quality, cost, and overall care*
10 *of the Medicare fee-for-service beneficiaries as-*
11 *signed to it.*

12 “(B) *The ACO shall enter into an agree-*
13 *ment with the Secretary to participate in the*
14 *program for not less than a 3-year period (re-*
15 *ferred to in this section as the ‘agreement pe-*
16 *riod’).*

17 “(C) *The ACO shall have a formal legal*
18 *structure that would allow the organization to*
19 *receive and distribute payments for shared sav-*
20 *ings under subsection (d)(2) to participating*
21 *providers of services and suppliers.*

22 “(D) *The ACO shall include primary care*
23 *ACO professionals that are sufficient for the*
24 *number of Medicare fee-for-service beneficiaries*
25 *assigned to the ACO under subsection (c). At a*

1 *minimum, the ACO shall have at least 5,000*
2 *such beneficiaries assigned to it under subsection*
3 *(c) in order to be eligible to participate in the*
4 *ACO program.*

5 *“(E) The ACO shall provide the Secretary*
6 *with such information regarding ACO profes-*
7 *sionals participating in the ACO as the Sec-*
8 *retary determines necessary to support the as-*
9 *signment of Medicare fee-for-service beneficiaries*
10 *to an ACO, the implementation of quality and*
11 *other reporting requirements under paragraph*
12 *(3), and the determination of payments for*
13 *shared savings under subsection (d)(2).*

14 *“(F) The ACO shall have in place a leader-*
15 *ship and management structure that includes*
16 *clinical and administrative systems.*

17 *“(G) The ACO shall define processes to pro-*
18 *mote evidence-based medicine and patient en-*
19 *gagement, report on quality and cost measures,*
20 *and coordinate care, such as through the use of*
21 *telehealth, remote patient monitoring, and other*
22 *such enabling technologies.*

23 *“(H) The ACO shall demonstrate to the Sec-*
24 *retary that it meets patient-centeredness criteria*
25 *specified by the Secretary, such as the use of pa-*

1 *tient and caregiver assessments or the use of in-*
2 *dividualized care plans.*

3 “(3) *QUALITY AND OTHER REPORTING REQUIRE-*
4 *MENTS.—*

5 “(A) *IN GENERAL.—The Secretary shall de-*
6 *termine appropriate measures to assess the qual-*
7 *ity of care furnished by the ACO, such as meas-*
8 *ures of—*

9 “(i) *clinical processes and outcomes;*

10 “(ii) *patient and, where practicable,*
11 *caregiver experience of care; and*

12 “(iii) *utilization (such as rates of hos-*
13 *pital admissions for ambulatory care sen-*
14 *sitive conditions).*

15 “(B) *REPORTING REQUIREMENTS.—An*
16 *ACO shall submit data in a form and manner*
17 *specified by the Secretary on measures the Sec-*
18 *retary determines necessary for the ACO to re-*
19 *port in order to evaluate the quality of care fur-*
20 *nished by the ACO. Such data may include care*
21 *transitions across health care settings, including*
22 *hospital discharge planning and post-hospital*
23 *discharge follow-up by ACO professionals, as the*
24 *Secretary determines appropriate.*

1 “(C) *QUALITY PERFORMANCE STAND-*
2 *ARDS.—The Secretary shall establish quality*
3 *performance standards to assess the quality of*
4 *care furnished by ACOs. The Secretary shall seek*
5 *to improve the quality of care furnished by ACOs*
6 *over time by specifying higher standards, new*
7 *measures, or both for purposes of assessing such*
8 *quality of care.*

9 “(D) *OTHER REPORTING REQUIREMENTS.—*
10 *The Secretary may, as the Secretary determines*
11 *appropriate, incorporate reporting requirements*
12 *and incentive payments related to the physician*
13 *quality reporting initiative (PQRI) under sec-*
14 *tion 1848, including such requirements and such*
15 *payments related to electronic prescribing, elec-*
16 *tronic health records, and other similar initia-*
17 *tives under section 1848, and may use alter-*
18 *native criteria than would otherwise apply*
19 *under such section for determining whether to*
20 *make such payments. The incentive payments*
21 *described in the preceding sentence shall not be*
22 *taken into consideration when calculating any*
23 *payments otherwise made under subsection (d).*

24 “(4) *NO DUPLICATION IN PARTICIPATION IN*
25 *SHARED SAVINGS PROGRAMS.—A provider of services*

1 *or supplier that participates in any of the following*
2 *shall not be eligible to participate in an ACO under*
3 *this section:*

4 “(A) *A model tested or expanded under sec-*
5 *tion 1115A that involves shared savings under*
6 *this title, or any other program or demonstration*
7 *project that involves such shared savings.*

8 “(B) *The independence at home medical*
9 *practice pilot program under section 1866E.*

10 “(c) *ASSIGNMENT OF MEDICARE FEE-FOR-SERVICE*
11 *BENEFICIARIES TO ACOS.—The Secretary shall determine*
12 *an appropriate method to assign Medicare fee-for-service*
13 *beneficiaries to an ACO based on their utilization of pri-*
14 *mary care services provided under this title by an ACO pro-*
15 *fessional described in subsection (h)(1)(A).*

16 “(d) *PAYMENTS AND TREATMENT OF SAVINGS.—*

17 “(1) *PAYMENTS.—*

18 “(A) *IN GENERAL.—Under the program,*
19 *subject to paragraph (3), payments shall con-*
20 *tinue to be made to providers of services and*
21 *suppliers participating in an ACO under the*
22 *original Medicare fee-for-service program under*
23 *parts A and B in the same manner as they*
24 *would otherwise be made except that a partici-*

1 *pating ACO is eligible to receive payment for*
2 *shared savings under paragraph (2) if—*

3 *“(i) the ACO meets quality perform-*
4 *ance standards established by the Secretary*
5 *under subsection (b)(3); and*

6 *“(ii) the ACO meets the requirement*
7 *under subparagraph (B)(i).*

8 *“(B) SAVINGS REQUIREMENT AND BENCH-*
9 *MARK.—*

10 *“(i) DETERMINING SAVINGS.—In each*
11 *year of the agreement period, an ACO shall*
12 *be eligible to receive payment for shared*
13 *savings under paragraph (2) only if the es-*
14 *timated average per capita Medicare ex-*
15 *penditures under the ACO for Medicare fee-*
16 *for-service beneficiaries for parts A and B*
17 *services, adjusted for beneficiary character-*
18 *istics, is at least the percent specified by the*
19 *Secretary below the applicable benchmark*
20 *under clause (ii). The Secretary shall deter-*
21 *mine the appropriate percent described in*
22 *the preceding sentence to account for nor-*
23 *mal variation in expenditures under this*
24 *title, based upon the number of Medicare*

1 *fee-for-service beneficiaries assigned to an*
2 *ACO.*

3 “(ii) *ESTABLISH AND UPDATE BENCH-*
4 *MARK.—The Secretary shall estimate a*
5 *benchmark for each agreement period for*
6 *each ACO using the most recent available 3*
7 *years of per-beneficiary expenditures for*
8 *parts A and B services for Medicare fee-for-*
9 *service beneficiaries assigned to the ACO.*
10 *Such benchmark shall be adjusted for bene-*
11 *ficiary characteristics and such other fac-*
12 *tors as the Secretary determines appro-*
13 *priate and updated by the projected absolute*
14 *amount of growth in national per capita*
15 *expenditures for parts A and B services*
16 *under the original Medicare fee-for-service*
17 *program, as estimated by the Secretary.*
18 *Such benchmark shall be reset at the start*
19 *of each agreement period.*

20 “(2) *PAYMENTS FOR SHARED SAVINGS.—Subject*
21 *to performance with respect to the quality perform-*
22 *ance standards established by the Secretary under*
23 *subsection (b)(3), if an ACO meets the requirements*
24 *under paragraph (1), a percent (as determined appro-*
25 *priate by the Secretary) of the difference between such*

1 *estimated average per capita Medicare expenditures*
2 *in a year, adjusted for beneficiary characteristics,*
3 *under the ACO and such benchmark for the ACO may*
4 *be paid to the ACO as shared savings and the re-*
5 *mainder of such difference shall be retained by the*
6 *program under this title. The Secretary shall establish*
7 *limits on the total amount of shared savings that may*
8 *be paid to an ACO under this paragraph.*

9 “(3) *MONITORING AVOIDANCE OF AT-RISK PA-*
10 *TIENTS.—If the Secretary determines that an ACO*
11 *has taken steps to avoid patients at risk in order to*
12 *reduce the likelihood of increasing costs to the ACO*
13 *the Secretary may impose an appropriate sanction on*
14 *the ACO, including termination from the program.*

15 “(4) *TERMINATION.—The Secretary may termi-*
16 *nate an agreement with an ACO if it does not meet*
17 *the quality performance standards established by the*
18 *Secretary under subsection (b)(3).*

19 “(e) *ADMINISTRATION.—Chapter 35 of title 44, United*
20 *States Code, shall not apply to the program.*

21 “(f) *WAIVER AUTHORITY.—The Secretary may waive*
22 *such requirements of sections 1128A and 1128B and title*
23 *XVIII of this Act as may be necessary to carry out the pro-*
24 *visions of this section.*

1 “(g) *LIMITATIONS ON REVIEW.*—*There shall be no ad-*
2 *ministrative or judicial review under section 1869, section*
3 *1878, or otherwise of—*

4 “(1) *the specification of criteria under subsection*
5 *(a)(1)(B);*

6 “(2) *the assessment of the quality of care fur-*
7 *nished by an ACO and the establishment of perform-*
8 *ance standards under subsection (b)(3);*

9 “(3) *the assignment of Medicare fee-for-service*
10 *beneficiaries to an ACO under subsection (c);*

11 “(4) *the determination of whether an ACO is eli-*
12 *gible for shared savings under subsection (d)(2) and*
13 *the amount of such shared savings, including the de-*
14 *termination of the estimated average per capita Medi-*
15 *care expenditures under the ACO for Medicare fee-for-*
16 *service beneficiaries assigned to the ACO and the av-*
17 *erage benchmark for the ACO under subsection*
18 *(d)(1)(B);*

19 “(5) *the percent of shared savings specified by*
20 *the Secretary under subsection (d)(2) and any limit*
21 *on the total amount of shared savings established by*
22 *the Secretary under such subsection; and*

23 “(6) *the termination of an ACO under subsection*
24 *(d)(4).*

25 “(h) *DEFINITIONS.*—*In this section:*

1 “(1) *ACO PROFESSIONAL*.—The term ‘ACO pro-
2 *fessional*’ means—

3 “(A) a physician (as defined in section
4 1861(r)(1)); and

5 “(B) a practitioner described in section
6 1842(b)(18)(C)(i).

7 “(2) *HOSPITAL*.—The term ‘hospital’ means a
8 subsection (d) hospital (as defined in section
9 1886(d)(1)(B)).

10 “(3) *MEDICARE FEE-FOR-SERVICE BENE-*
11 *FICIARY*.—The term ‘Medicare fee-for-service bene-
12 *ficiary*’ means an individual who is enrolled in the
13 original Medicare fee-for-service program under parts
14 A and B and is not enrolled in an MA plan under
15 part C, an eligible organization under section 1876,
16 or a PACE program under section 1894.”.

17 **SEC. 3023. NATIONAL PILOT PROGRAM ON PAYMENT BUN-**
18 **DLING.**

19 *Title XVIII of the Social Security Act, as amended by*
20 *section 3021, is amended by inserting after section 1886C*
21 *the following new section:*

22 “*NATIONAL PILOT PROGRAM ON PAYMENT BUNDLING*

23 “*SEC. 1866D. (a) IMPLEMENTATION*.—

24 “(1) *IN GENERAL*.—The Secretary shall establish
25 a pilot program for integrated care during an episode
26 of care provided to an applicable beneficiary around

1 *a hospitalization in order to improve the coordina-*
2 *tion, quality, and efficiency of health care services*
3 *under this title.*

4 “(2) *DEFINITIONS.—In this section:*

5 “(A) *APPLICABLE BENEFICIARY.—The term*
6 *‘applicable beneficiary’ means an individual*
7 *who—*

8 “(i) *is entitled to, or enrolled for, bene-*
9 *fits under part A and enrolled for benefits*
10 *under part B of such title, but not enrolled*
11 *under part C or a PACE program under*
12 *section 1894; and*

13 “(ii) *is admitted to a hospital for an*
14 *applicable condition.*

15 “(B) *APPLICABLE CONDITION.—The term*
16 *‘applicable condition’ means 1 or more of 8 con-*
17 *ditions selected by the Secretary. In selecting*
18 *conditions under the preceding sentence, the Sec-*
19 *retary shall take into consideration the following*
20 *factors:*

21 “(i) *Whether the conditions selected in-*
22 *clude a mix of chronic and acute conditions.*

23 “(ii) *Whether the conditions selected*
24 *include a mix of surgical and medical con-*
25 *ditions.*

1 “(iii) Whether a condition is one for
2 which there is evidence of an opportunity
3 for providers of services and suppliers to
4 improve the quality of care furnished while
5 reducing total expenditures under this title.

6 “(iv) Whether a condition has signifi-
7 cant variation in—

8 “(I) the number of readmissions;
9 and

10 “(II) the amount of expenditures
11 for post-acute care spending under this
12 title.

13 “(v) Whether a condition is high-vol-
14 ume and has high post-acute care expendi-
15 tures under this title.

16 “(vi) Which conditions the Secretary
17 determines are most amenable to bundling
18 across the spectrum of care given practice
19 patterns under this title.

20 “(C) *APPLICABLE SERVICES.*—The term
21 ‘applicable services’ means the following:

22 “(i) Acute care inpatient services.

23 “(ii) Physicians’ services delivered in
24 and outside of an acute care hospital set-
25 ting.

1 “(iii) *Outpatient hospital services, in-*
2 *cluding emergency department services.*

3 “(iv) *Post-acute care services, includ-*
4 *ing home health services, skilled nursing*
5 *services, inpatient rehabilitation services,*
6 *and inpatient hospital services furnished by*
7 *a long-term care hospital.*

8 “(v) *Other services the Secretary deter-*
9 *mines appropriate.*

10 “(D) *EPISODE OF CARE.—*

11 “(i) *IN GENERAL.—Subject to clause*
12 *(ii), the term ‘episode of care’ means, with*
13 *respect to an applicable condition and an*
14 *applicable beneficiary, the period that in-*
15 *cludes—*

16 “(I) *the 3 days prior to the ad-*
17 *mission of the applicable beneficiary to*
18 *a hospital for the applicable condition;*

19 “(II) *the length of stay of the ap-*
20 *plicable beneficiary in such hospital;*
21 *and*

22 “(III) *the 30 days following the*
23 *discharge of the applicable beneficiary*
24 *from such hospital.*

1 “(i) *ESTABLISHMENT OF PERIOD BY*
2 *THE SECRETARY.—The Secretary, as appro-*
3 *priate, may establish a period (other than*
4 *the period described in clause (i)) for an*
5 *episode of care under the pilot program.*

6 “(E) *PHYSICIANS’ SERVICES.—The term*
7 *‘physicians’ services’ has the meaning given such*
8 *term in section 1861(q).*

9 “(F) *PILOT PROGRAM.—The term ‘pilot*
10 *program’ means the pilot program under this*
11 *section.*

12 “(G) *PROVIDER OF SERVICES.—The term*
13 *‘provider of services’ has the meaning given such*
14 *term in section 1861(u).*

15 “(H) *READMISSION.—The term ‘readmis-*
16 *sion’ has the meaning given such term in section*
17 *1886(q)(5)(E).*

18 “(I) *SUPPLIER.—The term ‘supplier’ has*
19 *the meaning given such term in section 1861(d).*

20 “(3) *DEADLINE FOR IMPLEMENTATION.—The*
21 *Secretary shall establish the pilot program not later*
22 *than January 1, 2013.*

23 “(b) *DEVELOPMENTAL PHASE.—*

24 “(1) *DETERMINATION OF PATIENT ASSESSMENT*
25 *INSTRUMENT.—The Secretary shall determine which*

1 *patient assessment instrument (such as the Con-*
2 *tinuity Assessment Record and Evaluation (CARE)*
3 *tool) shall be used under the pilot program to evaluate*
4 *the applicable condition of an applicable beneficiary*
5 *for purposes of determining the most clinically appro-*
6 *priate site for the provision of post-acute care to the*
7 *applicable beneficiary.*

8 “(2) *DEVELOPMENT OF QUALITY MEASURES FOR*
9 *AN EPISODE OF CARE AND FOR POST-ACUTE CARE.—*

10 “(A) *IN GENERAL.—The Secretary, in con-*
11 *sultation with the Agency for Healthcare Re-*
12 *search and Quality and the entity with a con-*
13 *tract under section 1890(a) of the Social Secu-*
14 *rity Act, shall develop quality measures for use*
15 *in the pilot program—*

16 “(i) *for episodes of care; and*

17 “(ii) *for post-acute care.*

18 “(B) *SITE-NEUTRAL POST-ACUTE CARE*
19 *QUALITY MEASURES.—Any quality measures de-*
20 *veloped under subparagraph (A)(ii) shall be site-*
21 *neutral.*

22 “(C) *COORDINATION WITH QUALITY MEAS-*
23 *URE DEVELOPMENT AND ENDORSEMENT PROCE-*
24 *DURES.—The Secretary shall ensure that the de-*
25 *velopment of quality measures under subpara-*

1 *graph (A) is done in a manner that is consistent*
2 *with the measures developed and endorsed under*
3 *section 1890 and 1890A that are applicable to*
4 *all post-acute care settings.*

5 “(c) *DETAILS.*—

6 “(1) *DURATION.*—

7 “(A) *IN GENERAL.*—*Subject to subpara-*
8 *graph (B), the pilot program shall be conducted*
9 *for a period of 5 years.*

10 “(B) *EXTENSION.*—*The Secretary may ex-*
11 *tend the duration of the pilot program for pro-*
12 *viders of services and suppliers participating in*
13 *the pilot program as of the day before the end of*
14 *the 5-year period described in subparagraph (A),*
15 *for a period determined appropriate by the Sec-*
16 *retary, if the Secretary determines that such ex-*
17 *tension will result in improving or not reducing*
18 *the quality of patient care and reducing spend-*
19 *ing under this title.*

20 “(2) *PARTICIPATING PROVIDERS OF SERVICES*
21 *AND SUPPLIERS.*—

22 “(A) *IN GENERAL.*—*An entity comprised of*
23 *providers of services and suppliers, including a*
24 *hospital, a physician group, a skilled nursing fa-*
25 *cility, and a home health agency, who are other-*

1 *wise participating under this title, may submit*
2 *an application to the Secretary to provide appli-*
3 *cable services to applicable individuals under*
4 *this section.*

5 “(B) *REQUIREMENTS.*—*The Secretary shall*
6 *develop requirements for entities to participate*
7 *in the pilot program under this section. Such re-*
8 *quirements shall ensure that applicable bene-*
9 *ficiaries have an adequate choice of providers of*
10 *services and suppliers under the pilot program.*

11 “(3) *PAYMENT METHODOLOGY.*—

12 “(A) *IN GENERAL.*—

13 “(i) *ESTABLISHMENT OF PAYMENT*
14 *METHODS.*—*The Secretary shall develop*
15 *payment methods for the pilot program for*
16 *entities participating in the pilot program.*
17 *Such payment methods may include bun-*
18 *dled payments and bids from entities for*
19 *episodes of care. The Secretary shall make*
20 *payments to the entity for services covered*
21 *under this section.*

22 “(ii) *NO ADDITIONAL PROGRAM EX-*
23 *PENDITURES.*—*Payments under this section*
24 *for applicable items and services under this*
25 *title (including payment for services de-*

1 scribed in subparagraph (B)) for applicable
2 beneficiaries for a year shall be established
3 in a manner that does not result in spend-
4 ing more for such entity for such bene-
5 ficiaries than would otherwise be expended
6 for such entity for such beneficiaries for
7 such year if the pilot program were not im-
8 plemented, as estimated by the Secretary.

9 “(B) *INCLUSION OF CERTAIN SERVICES.*—A
10 payment methodology tested under the pilot pro-
11 gram shall include payment for the furnishing of
12 applicable services and other appropriate serv-
13 ices, such as care coordination, medication rec-
14 onciliation, discharge planning, transitional care
15 services, and other patient-centered activities as
16 determined appropriate by the Secretary.

17 “(C) *BUNDLED PAYMENTS.*—

18 “(i) *IN GENERAL.*—A bundled payment
19 under the pilot program shall—

20 “(I) be comprehensive, covering
21 the costs of applicable services and
22 other appropriate services furnished to
23 an individual during an episode of
24 care (as determined by the Secretary);
25 and

1 “(II) be made to the entity which
2 is participating in the pilot program.

3 “(ii) *REQUIREMENT FOR PROVISION OF*
4 *APPLICABLE SERVICES AND OTHER APPRO-*
5 *PRIATE SERVICES.—Applicable services and*
6 *other appropriate services for which pay-*
7 *ment is made under this subparagraph shall*
8 *be furnished or directed by the entity which*
9 *is participating in the pilot program.*

10 “(D) *PAYMENT FOR POST-ACUTE CARE*
11 *SERVICES AFTER THE EPISODE OF CARE.—The*
12 *Secretary shall establish procedures, in the case*
13 *where an applicable beneficiary requires contin-*
14 *ued post-acute care services after the last day of*
15 *the episode of care, under which payment for*
16 *such services shall be made.*

17 “(4) *QUALITY MEASURES.—*

18 “(A) *IN GENERAL.—The Secretary shall es-*
19 *tablish quality measures (including quality*
20 *measures of process, outcome, and structure) re-*
21 *lated to care provided by entities participating*
22 *in the pilot program. Quality measures estab-*
23 *lished under the preceding sentence shall include*
24 *measures of the following:*

25 “(i) *Functional status improvement.*

1 “(ii) *Reducing rates of avoidable hos-*
2 *pital readmissions.*

3 “(iii) *Rates of discharge to the commu-*
4 *nity.*

5 “(iv) *Rates of admission to an emer-*
6 *gency room after a hospitalization.*

7 “(v) *Incidence of health care acquired*
8 *infections.*

9 “(vi) *Efficiency measures.*

10 “(vii) *Measures of patient-centeredness*
11 *of care.*

12 “(viii) *Measures of patient perception*
13 *of care.*

14 “(ix) *Other measures, including meas-*
15 *ures of patient outcomes, determined appro-*
16 *priate by the Secretary.*

17 “(B) *REPORTING ON QUALITY MEASURES.—*

18 “(i) *IN GENERAL.—A entity shall sub-*
19 *mit data to the Secretary on quality meas-*
20 *ures established under subparagraph (A)*
21 *during each year of the pilot program (in*
22 *a form and manner, subject to clause (iii),*
23 *specified by the Secretary).*

24 “(ii) *SUBMISSION OF DATA THROUGH*
25 *ELECTRONIC HEALTH RECORD.—To the ex-*

1 *tent practicable, the Secretary shall specify*
2 *that data on measures be submitted under*
3 *clause (i) through the use of an qualified*
4 *electronic health record (as defined in sec-*
5 *tion 3000(13) of the Public Health Service*
6 *Act (42 U.S.C. 300jj–11(13)) in a manner*
7 *specified by the Secretary.*

8 “(d) *WAIVER.—The Secretary may waive such provi-*
9 *sions of this title and title XI as may be necessary to carry*
10 *out the pilot program.*

11 “(e) *INDEPENDENT EVALUATION AND REPORTS ON*
12 *PILOT PROGRAM.—*

13 “(1) *INDEPENDENT EVALUATION.—The Secretary*
14 *shall conduct an independent evaluation of the pilot*
15 *program, including the extent to which the pilot pro-*
16 *gram has—*

17 “(A) *improved quality measures established*
18 *under subsection (c)(4)(A);*

19 “(B) *improved health outcomes;*

20 “(C) *improved applicable beneficiary access*
21 *to care; and*

22 “(D) *reduced spending under this title.*

23 “(2) *REPORTS.—*

24 “(A) *INTERIM REPORT.—Not later than 2*
25 *years after the implementation of the pilot pro-*

1 *gram, the Secretary shall submit to Congress a*
2 *report on the initial results of the independent*
3 *evaluation conducted under paragraph (1).*

4 “(B) *FINAL REPORT.*—*Not later than 3*
5 *years after the implementation of the pilot pro-*
6 *gram, the Secretary shall submit to Congress a*
7 *report on the final results of the independent*
8 *evaluation conducted under paragraph (1).*

9 “(f) *CONSULTATION.*—*The Secretary shall consult with*
10 *representatives of small rural hospitals, including critical*
11 *access hospitals (as defined in section 1861(mm)(1)), re-*
12 *garding their participation in the pilot program. Such con-*
13 *sultation shall include consideration of innovative methods*
14 *of implementing bundled payments in hospitals described*
15 *in the preceding sentence, taking into consideration any*
16 *difficulties in doing so as a result of the low volume of serv-*
17 *ices provided by such hospitals.*

18 “(g) *IMPLEMENTATION PLAN.*—

19 “(1) *IN GENERAL.*—*Not later than January 1,*
20 *2016, the Secretary shall submit a plan for the imple-*
21 *mentation of an expansion of the pilot program if the*
22 *Secretary determines that such expansion will result*
23 *in improving or not reducing the quality of patient*
24 *care and reducing spending under this title.*

1 “(h) *ADMINISTRATION.*—Chapter 35 of title 44, United
2 *States Code, shall not apply to the selection, testing, and*
3 *evaluation of models or the expansion of such models under*
4 *this section.*”.

5 **SEC. 3024. INDEPENDENCE AT HOME DEMONSTRATION**
6 **PROGRAM.**

7 *Title XVIII of the Social Security Act is amended by*
8 *inserting after section 1866D, as inserted by section 3023,*
9 *the following new section:*

10 “*INDEPENDENCE AT HOME MEDICAL PRACTICE*
11 *DEMONSTRATION PROGRAM*

12 “*SEC. 1866D. (a) ESTABLISHMENT.*—

13 “(1) *IN GENERAL.*—*The Secretary shall conduct*
14 *a demonstration program (in this section referred to*
15 *as the ‘demonstration program’) to test a payment in-*
16 *centive and service delivery model that utilizes physi-*
17 *cian and nurse practitioner directed home-based pri-*
18 *mary care teams designed to reduce expenditures and*
19 *improve health outcomes in the provision of items and*
20 *services under this title to applicable beneficiaries (as*
21 *defined in subsection (d)).*

22 “(2) *REQUIREMENT.*—*The demonstration pro-*
23 *gram shall test whether a model described in para-*
24 *graph (1), which is accountable for providing com-*
25 *prehensive, coordinated, continuous, and accessible*
26 *care to high-need populations at home and coordi-*

1 *nating health care across all treatment settings, re-*
2 *sults in—*

3 *“(A) reducing preventable hospitalizations;*

4 *“(B) preventing hospital readmissions;*

5 *“(C) reducing emergency room visits;*

6 *“(D) improving health outcomes commensu-*
7 *rate with the beneficiaries’ stage of chronic ill-*
8 *ness;*

9 *“(E) improving the efficiency of care, such*
10 *as by reducing duplicative diagnostic and lab-*
11 *oratory tests;*

12 *“(F) reducing the cost of health care services*
13 *covered under this title; and*

14 *“(G) achieving beneficiary and family care-*
15 *giver satisfaction.*

16 *“(b) INDEPENDENCE AT HOME MEDICAL PRACTICE.—*

17 *“(1) INDEPENDENCE AT HOME MEDICAL PRAC-*
18 *TICE DEFINED.—In this section:*

19 *“(A) IN GENERAL.—The term ‘independence*
20 *at home medical practice’ means a legal entity*
21 *that—*

22 *“(i) is comprised of an individual phy-*
23 *sician or nurse practitioner or group of*
24 *physicians and nurse practitioners that*
25 *provides care as part of a team that in-*

1 *cludes physicians, nurses, physician assist-*
2 *ants, pharmacists, and other health and so-*
3 *cial services staff as appropriate who have*
4 *experience providing home-based primary*
5 *care to applicable beneficiaries, make in-*
6 *home visits, and are available 24 hours per*
7 *day, 7 days per week to carry out plans of*
8 *care that are tailored to the individual*
9 *beneficiary's chronic conditions and de-*
10 *signed to achieve the results in subsection*
11 *(a);*

12 *“(ii) is organized at least in part for*
13 *the purpose of providing physicians' serv-*
14 *ices;*

15 *“(iii) has documented experience in*
16 *providing home-based primary care services*
17 *to high-cost chronically ill beneficiaries, as*
18 *determined appropriate by the Secretary;*

19 *“(iv) furnishes services to at least 200*
20 *applicable beneficiaries (as defined in sub-*
21 *section (d)) during each year of the dem-*
22 *onstration program;*

23 *“(v) has entered into an agreement*
24 *with the Secretary;*

1 “(vi) uses electronic health information
2 systems, remote monitoring, and mobile di-
3 agnostic technology; and

4 “(vii) meets such other criteria as the
5 Secretary determines to be appropriate to
6 participate in the demonstration program.

7 *The entity shall report on quality measures (in*
8 *such form, manner, and frequency as specified*
9 *by the Secretary, which may be for the group, for*
10 *providers of services and suppliers, or both) and*
11 *report to the Secretary (in a form, manner, and*
12 *frequency as specified by the Secretary) such*
13 *data as the Secretary determines appropriate to*
14 *monitor and evaluate the demonstration pro-*
15 *gram.*

16 “(B) *PHYSICIAN.*—*The term ‘physician’ in-*
17 *cludes, except as the Secretary may otherwise*
18 *provide, any individual who furnishes services*
19 *for which payment may be made as physicians’*
20 *services and has the medical training or experi-*
21 *ence to fulfill the physician’s role described in*
22 *subparagraph (A)(i).*

23 “(2) *PARTICIPATION OF NURSE PRACTITIONERS*
24 *AND PHYSICIAN ASSISTANTS.*—*Nothing in this section*
25 *shall be construed to prevent a nurse practitioner or*

1 *physician assistant from participating in, or leading,*
2 *a home-based primary care team as part of an inde-*
3 *pendence at home medical practice if—*

4 *“(A) all the requirements of this section are*
5 *met;*

6 *“(B) the nurse practitioner or physician as-*
7 *stant, as the case may be, is acting consistent*
8 *with State law; and*

9 *“(C) the nurse practitioner or physician as-*
10 *stant has the medical training or experience to*
11 *fulfill the nurse practitioner or physician assist-*
12 *ant role described in paragraph (1)(A)(i).*

13 *“(3) INCLUSION OF PROVIDERS AND PRACTI-*
14 *TIONERS.—Nothing in this subsection shall be con-*
15 *strued as preventing an independence at home med-*
16 *ical practice from including a provider of services or*
17 *a participating practitioner described in section*
18 *1842(b)(18)(C) that is affiliated with the practice*
19 *under an arrangement structured so that such pro-*
20 *vider of services or practitioner participates in the*
21 *demonstration program and shares in any savings*
22 *under the demonstration program.*

23 *“(4) QUALITY AND PERFORMANCE STANDARDS.—*
24 *The Secretary shall develop quality performance*

1 *standards for independence at home medical practices*
2 *participating in the demonstration program.*

3 “(c) *PAYMENT METHODOLOGY.*—

4 “(1) *ESTABLISHMENT OF TARGET SPENDING*
5 *LEVEL.*—*The Secretary shall establish an estimated*
6 *annual spending target, for the amount the Secretary*
7 *estimates would have been spent in the absence of the*
8 *demonstration, for items and services covered under*
9 *parts A and B furnished to applicable beneficiaries*
10 *for each qualifying independence at home medical*
11 *practice under this section. Such spending targets*
12 *shall be determined on a per capita basis. Such*
13 *spending targets shall include a risk corridor that*
14 *takes into account normal variation in expenditures*
15 *for items and services covered under parts A and B*
16 *furnished to such beneficiaries with the size of the cor-*
17 *ridor being related to the number of applicable bene-*
18 *ficiaries furnished services by each independence at*
19 *home medical practice. The spending targets may also*
20 *be adjusted for other factors as the Secretary deter-*
21 *mines appropriate.*

22 “(2) *INCENTIVE PAYMENTS.*—*Subject to perform-*
23 *ance on quality measures, a qualifying independence*
24 *at home medical practice is eligible to receive an in-*
25 *centive payment under this section if actual expendi-*

1 *tures for a year for the applicable beneficiaries it en-*
2 *rolls are less than the estimated spending target estab-*
3 *lished under paragraph (1) for such year. An incen-*
4 *tive payment for such year shall be equal to a portion*
5 *(as determined by the Secretary) of the amount by*
6 *which actual expenditures (including incentive pay-*
7 *ments under this paragraph) for applicable bene-*
8 *ficiaries under parts A and B for such year are esti-*
9 *mated to be less than 5 percent less than the estimated*
10 *spending target for such year, as determined under*
11 *paragraph (1).*

12 “(d) *APPLICABLE BENEFICIARIES.*—

13 “(1) *DEFINITION.*—*In this section, the term ‘ap-*
14 *plicable beneficiary’ means, with respect to a quali-*
15 *fying independence at home medical practice, an in-*
16 *dividual who the practice has determined—*

17 “(A) *is entitled to benefits under part A*
18 *and enrolled for benefits under part B;*

19 “(B) *is not enrolled in a Medicare Advan-*
20 *tage plan under part C or a PACE program*
21 *under section 1894;*

22 “(C) *has 2 or more chronic illnesses, such as*
23 *congestive heart failure, diabetes, other dementias*
24 *designated by the Secretary, chronic obstructive*
25 *pulmonary disease, ischemic heart disease,*

1 *stroke, Alzheimer’s Disease and*
2 *neurodegenerative diseases, and other diseases*
3 *and conditions designated by the Secretary*
4 *which result in high costs under this title;*

5 “(D) *within the past 12 months has had a*
6 *nonelective hospital admission;*

7 “(E) *within the past 12 months has received*
8 *acute or subacute rehabilitation services;*

9 “(F) *has 2 or more functional dependencies*
10 *requiring the assistance of another person (such*
11 *as bathing, dressing, toileting, walking, or feed-*
12 *ing); and*

13 “(G) *meets such other criteria as the Sec-*
14 *retary determines appropriate.*

15 “(2) *PATIENT ELECTION TO PARTICIPATE.—The*
16 *Secretary shall determine an appropriate method of*
17 *ensuring that applicable beneficiaries have agreed to*
18 *enroll in an independence at home medical practice*
19 *under the demonstration program. Enrollment in the*
20 *demonstration program shall be voluntary.*

21 “(3) *BENEFICIARY ACCESS TO SERVICES.—Noth-*
22 *ing in this section shall be construed as encouraging*
23 *physicians or nurse practitioners to limit applicable*
24 *beneficiary access to services covered under this title*
25 *and applicable beneficiaries shall not be required to*

1 *relinquish access to any benefit under this title as a*
2 *condition of receiving services from an independence*
3 *at home medical practice.*

4 “(e) *IMPLEMENTATION.*—

5 “(1) *STARTING DATE.*—*The demonstration pro-*
6 *gram shall begin no later than January 1, 2012. An*
7 *agreement with an independence at home medical*
8 *practice under the demonstration program may cover*
9 *not more than a 3-year period.*

10 “(2) *NO PHYSICIAN DUPLICATION IN DEM-*
11 *ONSTRATION PARTICIPATION.*—*The Secretary shall not*
12 *pay an independence at home medical practice under*
13 *this section that participates in section 1899.*

14 “(3) *NO BENEFICIARY DUPLICATION IN DEM-*
15 *ONSTRATION PARTICIPATION.*—*The Secretary shall en-*
16 *sure that no applicable beneficiary enrolled in an*
17 *independence at home medical practice under this sec-*
18 *tion is participating in the programs under section*
19 *1899.*

20 “(4) *PREFERENCE.*—*In approving an independ-*
21 *ence at home medical practice, the Secretary shall*
22 *give preference to practices that are—*

23 “(A) *located in high-cost areas of the coun-*
24 *try;*

1 “(B) *have experience in furnishing health*
2 *care services to applicable beneficiaries in the*
3 *home; and*

4 “(C) *use electronic medical records, health*
5 *information technology, and individualized*
6 *plans of care.*

7 “(5) *LIMITATION ON NUMBER OF PRACTICES.—*
8 *In selecting qualified independence at home medical*
9 *practices to participate under the demonstration pro-*
10 *gram, the Secretary shall limit the number of such*
11 *practices so that the number of applicable bene-*
12 *ficiaries that may participate in the demonstration*
13 *program does not exceed 10,000.*

14 “(6) *WAIVER.—The Secretary may waive such*
15 *provisions of this title and title XI as the Secretary*
16 *determines necessary in order to implement the dem-*
17 *onstration program.*

18 “(7) *ADMINISTRATION.—Chapter 35 of title 44,*
19 *United States Code, shall not apply to this section.*

20 “(f) *EVALUATION AND MONITORING.—*

21 “(1) *IN GENERAL.—The Secretary shall evaluate*
22 *each independence at home medical practice under the*
23 *demonstration program to assess whether the practice*
24 *achieved the results described in subsection (a).*

1 “(2) MONITORING APPLICABLE BENE-
2 FICIARIES.—*The Secretary may monitor data on ex-*
3 *penditures and quality of services under this title*
4 *after an applicable beneficiary discontinues receiving*
5 *services under this title through a qualifying inde-*
6 *pendence at home medical practice.*

7 “(g) REPORTS TO CONGRESS.—*The Secretary shall*
8 *conduct an independent evaluation of the demonstration*
9 *program and submit to Congress a final report, including*
10 *best practices under the demonstration program. Such re-*
11 *port shall include an analysis of the demonstration pro-*
12 *gram on coordination of care, expenditures under this title,*
13 *applicable beneficiary access to services, and the quality of*
14 *health care services provided to applicable beneficiaries.*

15 “(h) FUNDING.—*For purposes of administering and*
16 *carrying out the demonstration program, other than for*
17 *payments for items and services furnished under this title*
18 *and incentive payments under subsection (c), in addition*
19 *to funds otherwise appropriated, there shall be transferred*
20 *to the Secretary for the Center for Medicare & Medicaid*
21 *Services Program Management Account from the Federal*
22 *Hospital Insurance Trust Fund under section 1817 and the*
23 *Federal Supplementary Medical Insurance Trust Fund*
24 *under section 1841 (in proportions determined appropriate*
25 *by the Secretary) \$5,000,000 for each of fiscal years 2010*

1 *through 2015. Amounts transferred under this subsection*
2 *for a fiscal year shall be available until expended.*

3 “(i) *TERMINATION.*—

4 “(1) *MANDATORY TERMINATION.*—*The Secretary*
5 *shall terminate an agreement with an independence*
6 *at home medical practice if—*

7 “(A) *the Secretary estimates or determines*
8 *that such practice will not receive an incentive*
9 *payment for the second of 2 consecutive years*
10 *under the demonstration program; or*

11 “(B) *such practice fails to meet quality*
12 *standards during any year of the demonstration*
13 *program.*

14 “(2) *PERMISSIVE TERMINATION.*—*The Secretary*
15 *may terminate an agreement with an independence at*
16 *home medical practice for such other reasons deter-*
17 *mined appropriate by the Secretary.”.*

18 **SEC. 3025. HOSPITAL READMISSIONS REDUCTION PRO-**
19 **GRAM.**

20 (a) *IN GENERAL.*—*Section 1886 of the Social Security*
21 *Act (42 U.S.C. 1395ww), as amended by sections 3001 and*
22 *3008, is amended by adding at the end the following new*
23 *subsection:*

24 “(q) *HOSPITAL READMISSIONS REDUCTION PRO-*
25 *GRAM.*—

1 “(1) *IN GENERAL.*—*With respect to payment for*
2 *discharges from an applicable hospital (as defined in*
3 *paragraph (5)(C)) occurring during a fiscal year be-*
4 *ginning on or after October 1, 2012, in order to ac-*
5 *count for excess readmissions in the hospital, the Sec-*
6 *retary shall reduce the payments that would otherwise*
7 *be made to such hospital under subsection (d) (or sec-*
8 *tion 1814(b)(3), as the case may be) for such a dis-*
9 *charge by an amount equal to the product of—*

10 “(A) *the base operating DRG payment*
11 *amount (as defined in paragraph (2)) for the*
12 *discharge; and*

13 “(B) *the adjustment factor (described in*
14 *paragraph (3)(A)) for the hospital for the fiscal*
15 *year.*

16 “(2) *BASE OPERATING DRG PAYMENT AMOUNT*
17 *DEFINED.*—

18 “(A) *IN GENERAL.*—*Except as provided in*
19 *subparagraph (B), in this subsection, the term*
20 *‘base operating DRG payment amount’ means,*
21 *with respect to a hospital for a fiscal year—*

22 “(i) *the payment amount that would*
23 *otherwise be made under subsection (d) (de-*
24 *termined without regard to subsection (o))*

1 for a discharge if this subsection did not
2 apply; reduced by

3 “(i) any portion of such payment
4 amount that is attributable to payments
5 under paragraphs (5)(A), (5)(B), (5)(F),
6 and (12) of subsection (d).

7 “(B) SPECIAL RULES FOR CERTAIN HOS-
8 PITALS.—

9 “(i) SOLE COMMUNITY HOSPITALS AND
10 MEDICARE-DEPENDENT, SMALL RURAL HOS-
11 PITALS.—In the case of a medicare-depend-
12 ent, small rural hospital (with respect to
13 discharges occurring during fiscal years
14 2012 and 2013) or a sole community hos-
15 pital, in applying subparagraph (A)(i), the
16 payment amount that would otherwise be
17 made under subsection (d) shall be deter-
18 mined without regard to subparagraphs (I)
19 and (L) of subsection (b)(3) and subpara-
20 graphs (D) and (G) of subsection (d)(5).

21 “(ii) HOSPITALS PAID UNDER SECTION
22 1814.—In the case of a hospital that is paid
23 under section 1814(b)(3), the Secretary may
24 exempt such hospitals provided that States
25 paid under such section submit an annual

1 *report to the Secretary describing how a*
2 *similar program in the State for a partici-*
3 *parting hospital or hospitals achieves or sur-*
4 *passes the measured results in terms of pa-*
5 *tient health outcomes and cost savings es-*
6 *tablished herein with respect to this section.*

7 “(3) *ADJUSTMENT FACTOR.*—

8 “(A) *IN GENERAL.*—*For purposes of para-*
9 *graph (1), the adjustment factor under this para-*
10 *graph for an applicable hospital for a fiscal year*
11 *is equal to the greater of—*

12 “(i) *the ratio described in subpara-*
13 *graph (B) for the hospital for the applicable*
14 *period (as defined in paragraph (5)(D)) for*
15 *such fiscal year; or*

16 “(ii) *the floor adjustment factor speci-*
17 *fied in subparagraph (C).*

18 “(B) *RATIO.*—*The ratio described in this*
19 *subparagraph for a hospital for an applicable*
20 *period is equal to 1 minus the ratio of—*

21 “(i) *the aggregate payments for excess*
22 *readmissions (as defined in paragraph*
23 *(4)(A)) with respect to an applicable hos-*
24 *pital for the applicable period; and*

1 “(ii) the aggregate payments for all
2 discharges (as defined in paragraph (4)(B))
3 with respect to such applicable hospital for
4 such applicable period.

5 “(C) FLOOR ADJUSTMENT FACTOR.—For
6 purposes of subparagraph (A), the floor adjust-
7 ment factor specified in this subparagraph for—

8 “(i) fiscal year 2013 is 0.99;

9 “(ii) fiscal year 2014 is 0.98; or

10 “(iii) fiscal year 2015 and subsequent
11 fiscal years is 0.97.

12 “(4) AGGREGATE PAYMENTS, EXCESS READMIS-
13 SION RATIO DEFINED.—For purposes of this sub-
14 section:

15 “(A) AGGREGATE PAYMENTS FOR EXCESS
16 READMISSIONS.—The term ‘aggregate payments
17 for excess readmissions’ means, for a hospital for
18 an applicable period, the sum, for applicable
19 conditions (as defined in paragraph (5)(A)), of
20 the product, for each applicable condition, of—

21 “(i) the base operating DRG payment
22 amount for such hospital for such applicable
23 period for such condition;

1 “(ii) *the number of admissions for such*
2 *condition for such hospital for such applica-*
3 *ble period; and*

4 “(iii) *the excess readmissions ratio (as*
5 *defined in subparagraph (C)) for such hos-*
6 *pital for such applicable period minus 1.*

7 “(B) *AGGREGATE PAYMENTS FOR ALL DIS-*
8 *CHARGES.—The term ‘aggregate payments for all*
9 *discharges’ means, for a hospital for an applica-*
10 *ble period, the sum of the base operating DRG*
11 *payment amounts for all discharges for all con-*
12 *ditions from such hospital for such applicable*
13 *period.*

14 “(C) *EXCESS READMISSION RATIO.—*

15 “(i) *IN GENERAL.—Subject to clause*
16 *(ii), the term ‘excess readmissions ratio’*
17 *means, with respect to an applicable condi-*
18 *tion for a hospital for an applicable period,*
19 *the ratio (but not less than 1.0) of—*

20 “(I) *the risk adjusted readmis-*
21 *sions based on actual readmissions, as*
22 *determined consistent with a readmis-*
23 *sion measure methodology that has*
24 *been endorsed under paragraph*
25 *(5)(A)(ii)(I), for an applicable hospital*

1 for such condition with respect to such
2 applicable period; to

3 “(II) the risk adjusted expected re-
4 admissions (as determined consistent
5 with such a methodology) for such hos-
6 pital for such condition with respect to
7 such applicable period.

8 “(ii) *EXCLUSION OF CERTAIN RE-*
9 *ADMISSIONS.*—For purposes of clause (i),
10 with respect to a hospital, excess readmis-
11 sions shall not include readmissions for an
12 applicable condition for which there are
13 fewer than a minimum number (as deter-
14 mined by the Secretary) of discharges for
15 such applicable condition for the applicable
16 period and such hospital.

17 “(5) *DEFINITIONS.*—For purposes of this sub-
18 section:

19 “(A) *APPLICABLE CONDITION.*—The term
20 ‘applicable condition’ means, subject to subpara-
21 graph (B), a condition or procedure selected by
22 the Secretary among conditions and procedures
23 for which—

24 “(i) readmissions (as defined in sub-
25 paragraph (E)) that represent conditions or

1 *procedures that are high volume or high ex-*
2 *penditures under this title (or other criteria*
3 *specified by the Secretary); and*

4 “(i) *measures of such readmissions—*

5 “(I) *have been endorsed by the en-*
6 *tity with a contract under section*
7 *1890(a); and*

8 “(II) *such endorsed measures have*
9 *exclusions for readmissions that are*
10 *unrelated to the prior discharge (such*
11 *as a planned readmission or transfer*
12 *to another applicable hospital).*

13 “(B) *EXPANSION OF APPLICABLE CONDI-*
14 *TIONS.—Beginning with fiscal year 2015, the*
15 *Secretary shall, to the extent practicable, expand*
16 *the applicable conditions beyond the 3 conditions*
17 *for which measures have been endorsed as de-*
18 *scribed in subparagraph (A)(ii)(I) as of the date*
19 *of the enactment of this subsection to the addi-*
20 *tional 4 conditions that have been identified by*
21 *the Medicare Payment Advisory Commission in*
22 *its report to Congress in June 2007 and to other*
23 *conditions and procedures as determined appro-*
24 *priate by the Secretary. In expanding such ap-*
25 *plicable conditions, the Secretary shall seek the*

1 endorsement described in subparagraph
2 (A)(ii)(I) but may apply such measures without
3 such an endorsement in the case of a specified
4 area or medical topic determined appropriate by
5 the Secretary for which a feasible and practical
6 measure has not been endorsed by the entity with
7 a contract under section 1890(a) as long as due
8 consideration is given to measures that have been
9 endorsed or adopted by a consensus organization
10 identified by the Secretary.

11 “(C) *APPLICABLE HOSPITAL.*—The term
12 ‘applicable hospital’ means a subsection (d) hos-
13 pital or a hospital that is paid under section
14 1814(b)(3), as the case may be.

15 “(D) *APPLICABLE PERIOD.*—The term ‘ap-
16 plicable period’ means, with respect to a fiscal
17 year, such period as the Secretary shall specify.

18 “(E) *READMISSION.*—The term ‘readmis-
19 sion’ means, in the case of an individual who is
20 discharged from an applicable hospital, the ad-
21 mission of the individual to the same or another
22 applicable hospital within a time period speci-
23 fied by the Secretary from the date of such dis-
24 charge. Insofar as the discharge relates to an ap-
25 plicable condition for which there is an endorsed

1 *measure described in subparagraph (A)(ii)(I),*
2 *such time period (such as 30 days) shall be con-*
3 *sistent with the time period specified for such*
4 *measure.*

5 “(6) *REPORTING HOSPITAL SPECIFIC INFORMA-*
6 *TION.—*

7 “(A) *IN GENERAL.—The Secretary shall*
8 *make information available to the public regard-*
9 *ing readmission rates of each subsection (d) hos-*
10 *pital under the program.*

11 “(B) *OPPORTUNITY TO REVIEW AND SUBMIT*
12 *CORRECTIONS.—The Secretary shall ensure that*
13 *a subsection (d) hospital has the opportunity to*
14 *review, and submit corrections for, the informa-*
15 *tion to be made public with respect to the hos-*
16 *pital under subparagraph (A) prior to such in-*
17 *formation being made public.*

18 “(C) *WEBSITE.—Such information shall be*
19 *posted on the Hospital Compare Internet website*
20 *in an easily understandable format.*

21 “(7) *LIMITATIONS ON REVIEW.—There shall be*
22 *no administrative or judicial review under section*
23 *1869, section 1878, or otherwise of the following:*

24 “(A) *The determination of base operating*
25 *DRG payment amounts.*

1 “(B) *The methodology for determining the*
2 *adjustment factor under paragraph (3), includ-*
3 *ing excess readmissions ratio under paragraph*
4 *(4)(C), aggregate payments for excess readmis-*
5 *sions under paragraph (4)(A), and aggregate*
6 *payments for all discharges under paragraph*
7 *(4)(B), and applicable periods and applicable*
8 *conditions under paragraph (5).*

9 “(C) *The measures of readmissions as de-*
10 *scribed in paragraph (5)(A)(ii).*

11 “(8) *READMISSION RATES FOR ALL PATIENTS.—*

12 “(A) *CALCULATION OF READMISSION.—The*
13 *Secretary shall calculate readmission rates for*
14 *all patients (as defined in subparagraph (D)) for*
15 *a specified hospital (as defined in subparagraph*
16 *(D)(ii)) for an applicable condition (as defined*
17 *in paragraph (5)(B)) and other conditions*
18 *deemed appropriate by the Secretary for an ap-*
19 *licable period (as defined in paragraph (5)(D))*
20 *in the same manner as used to calculate such re-*
21 *admission rates for hospitals with respect to this*
22 *title and posted on the CMS Hospital Compare*
23 *website.*

24 “(B) *POSTING OF HOSPITAL SPECIFIC ALL*
25 *PATIENT READMISSION RATES.—The Secretary*

1 *shall make information on all patient readmis-*
2 *tion rates calculated under subparagraph (A)*
3 *available on the CMS Hospital Compare website*
4 *in a form and manner determined appropriate*
5 *by the Secretary. The Secretary may also make*
6 *other information determined appropriate by the*
7 *Secretary available on such website.*

8 *“(C) HOSPITAL SUBMISSION OF ALL PA-*
9 *TIENT DATA.—*

10 *“(i) Except as provided for in clause*
11 *(ii), each specified hospital (as defined in*
12 *subparagraph (D)(ii)) shall submit to the*
13 *Secretary, in a form, manner and time*
14 *specified by the Secretary, data and infor-*
15 *mation determined necessary by the Sec-*
16 *retary for the Secretary to calculate the all*
17 *patient readmission rates described in sub-*
18 *paragraph (A).*

19 *“(ii) Instead of a specified hospital*
20 *submitting to the Secretary the data and*
21 *information described in clause (i), such*
22 *data and information may be submitted to*
23 *the Secretary, on behalf of such a specified*
24 *hospital, by a state or an entity determined*
25 *appropriate by the Secretary.*

1 “(D) *DEFINITIONS.*—*For purposes of this*
2 *paragraph:*

3 “(i) *The term ‘all patients’ means pa-*
4 *tients who are treated on an inpatient basis*
5 *and discharged from a specified hospital (as*
6 *defined in clause (ii)).*

7 “(ii) *The term ‘specified hospital’*
8 *means a subsection (d) hospital, hospitals*
9 *described in clauses (i) through (v) of sub-*
10 *section (d)(1)(B) and, as determined fea-*
11 *sible and appropriate by the Secretary,*
12 *other hospitals not otherwise described in*
13 *this subparagraph.”.*

14 (b) *QUALITY IMPROVEMENT.*—*Part S of title III of the*
15 *Public Health Service Act, as amended by section 3015, is*
16 *further amended by adding at the end the following:*

17 “**SEC. 399KK. QUALITY IMPROVEMENT PROGRAM FOR HOS-**
18 **PITALS WITH A HIGH SEVERITY ADJUSTED**
19 **READMISSION RATE.**

20 “(a) *ESTABLISHMENT.*—

21 “(1) *IN GENERAL.*—*Not later than 2 years after*
22 *the date of enactment of this section, the Secretary*
23 *shall make available a program for eligible hospitals*
24 *to improve their readmission rates through the use of*

1 *patient safety organizations (as defined in section*
2 *921(4)).*

3 “(2) *ELIGIBLE HOSPITAL DEFINED.*—*In this*
4 *subsection, the term ‘eligible hospital’ means a hos-*
5 *pital that the Secretary determines has a high rate of*
6 *risk adjusted readmissions for the conditions described*
7 *in section 1886(q)(8)(A) of the Social Security Act*
8 *and has not taken appropriate steps to reduce such*
9 *readmissions and improve patient safety as evidenced*
10 *through historically high rates of readmissions, as de-*
11 *termined by the Secretary.*

12 “(3) *RISK ADJUSTMENT.*—*The Secretary shall*
13 *utilize appropriate risk adjustment measures to deter-*
14 *mine eligible hospitals.*

15 “(b) *REPORT TO THE SECRETARY.*—*As determined ap-*
16 *propriate by the Secretary, eligible hospitals and patient*
17 *safety organizations working with those hospitals shall re-*
18 *port to the Secretary on the processes employed by the hos-*
19 *pital to improve readmission rates and the impact of such*
20 *processes on readmission rates.”.*

21 **SEC. 3026. COMMUNITY-BASED CARE TRANSITIONS PRO-**
22 **GRAM.**

23 “(a) *IN GENERAL.*—*The Secretary shall establish a*
24 *Community-Based Care Transitions Program under which*
25 *the Secretary provides funding to eligible entities that fur-*

1 *nish improved care transition services to high-risk Medicare*
2 *beneficiaries.*

3 *(b) DEFINITIONS.—In this section:*

4 *(1) ELIGIBLE ENTITY.—The term “eligible enti-*
5 *ty” means the following:*

6 *(A) A subsection (d) hospital (as defined in*
7 *section 1886(d)(1)(B) of the Social Security Act*
8 *(42 U.S.C. 1395ww(d)(1)(B))) identified by the*
9 *Secretary as having a high readmission rate,*
10 *such as under section 1886(q) of the Social Secu-*
11 *rity Act, as added by section 3025.*

12 *(B) An appropriate community-based orga-*
13 *nization that provides care transition services*
14 *under this section across a continuum of care*
15 *through arrangements with subsection (d) hos-*
16 *pitals (as so defined) to furnish the services de-*
17 *scribed in subsection (c)(2)(B)(i) and whose gov-*
18 *erning body includes sufficient representation of*
19 *multiple health care stakeholders (including con-*
20 *sumers).*

21 *(2) HIGH-RISK MEDICARE BENEFICIARY.—The*
22 *term “high-risk Medicare beneficiary” means a Medi-*
23 *care beneficiary who has attained a minimum hier-*
24 *archical condition category score, as determined by*
25 *the Secretary, based on a diagnosis of multiple chron-*

1 *ic conditions or other risk factors associated with a*
2 *hospital readmission or substandard transition into*
3 *post-hospitalization care, which may include 1 or*
4 *more of the following:*

5 (A) *Cognitive impairment.*

6 (B) *Depression.*

7 (C) *A history of multiple readmissions.*

8 (D) *Any other chronic disease or risk factor*
9 *as determined by the Secretary.*

10 (3) *MEDICARE BENEFICIARY.*—*The term “Medi-*
11 *care beneficiary” means an individual who is entitled*
12 *to benefits under part A of title XVIII of the Social*
13 *Security Act (42 U.S.C. 1395 et seq.) and enrolled*
14 *under part B of such title, but not enrolled under*
15 *part C of such title.*

16 (4) *PROGRAM.*—*The term “program” means the*
17 *program conducted under this section.*

18 (5) *READMISSION.*—*The term “readmission” has*
19 *the meaning given such term in section 1886(q)(5)(E)*
20 *of the Social Security Act, as added by section 3025.*

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

23 (c) *REQUIREMENTS.*—

24 (1) *DURATION.*—

1 (A) *IN GENERAL.*—*The program shall be*
2 *conducted for a 5-year period, beginning Janu-*
3 *ary 1, 2011.*

4 (B) *EXPANSION.*—*The Secretary may ex-*
5 *pend the duration and the scope of the program,*
6 *to the extent determined appropriate by the Sec-*
7 *retary, if the Secretary determines (and the Chief*
8 *Actuary of the Centers for Medicare & Medicaid*
9 *Services, with respect to spending under this*
10 *title, certifies) that such expansion would reduce*
11 *spending under this title without reducing qual-*
12 *ity.*

13 (2) *APPLICATION; PARTICIPATION.*—

14 (A) *IN GENERAL.*—

15 (i) *APPLICATION.*—*An eligible entity*
16 *seeking to participate in the program shall*
17 *submit an application to the Secretary at*
18 *such time, in such manner, and containing*
19 *such information as the Secretary may re-*
20 *quire.*

21 (ii) *PARTNERSHIP.*—*If an eligible enti-*
22 *ty is a hospital, such hospital shall enter*
23 *into a partnership with a community-based*
24 *organization to participate in the program.*

1 (B) *INTERVENTION PROPOSAL.*—Subject to
2 subparagraph (C), an application submitted
3 under subparagraph (A)(i) shall include a de-
4 tailed proposal for at least 1 care transition
5 intervention, which may include the following:

6 (i) *Initiating care transition services*
7 for a high-risk Medicare beneficiary not
8 later than 24 hours prior to the discharge of
9 the beneficiary from the eligible entity.

10 (ii) *Arranging timely post-discharge*
11 follow-up services to the high-risk Medicare
12 beneficiary to provide the beneficiary (and,
13 as appropriate, the primary caregiver of the
14 beneficiary) with information regarding re-
15 sponding to symptoms that may indicate
16 additional health problems or a deterio-
17 rating condition.

18 (iii) *Providing the high-risk Medicare*
19 beneficiary (and, as appropriate, the pri-
20 mary caregiver of the beneficiary) with as-
21 sistance to ensure productive and timely
22 interactions between patients and post-acute
23 and outpatient providers.

24 (iv) *Assessing and actively engaging*
25 with a high-risk Medicare beneficiary (and,

1 *as appropriate, the primary caregiver of the*
2 *beneficiary) through the provision of self-*
3 *management support and relevant informa-*
4 *tion that is specific to the beneficiary's con-*
5 *dition.*

6 *(v) Conducting comprehensive medica-*
7 *tion review and management (including, if*
8 *appropriate, counseling and self-manage-*
9 *ment support).*

10 (C) *LIMITATION.*—*A care transition inter-*
11 *vention proposed under subparagraph (B) may*
12 *not include payment for services required under*
13 *the discharge planning process described in sec-*
14 *tion 1861(ee) of the Social Security Act (42*
15 *U.S.C. 1395x(ee)).*

16 (3) *SELECTION.*—*In selecting eligible entities to*
17 *participate in the program, the Secretary shall give*
18 *priority to eligible entities that—*

19 (A) *participate in a program administered*
20 *by the Administration on Aging to provide con-*
21 *current care transitions interventions with mul-*
22 *tiple hospitals and practitioners; or*

23 (B) *provide services to medically under-*
24 *served populations, small communities, and*
25 *rural areas.*

1 (d) *IMPLEMENTATION.*—Notwithstanding any other
2 provision of law, the Secretary may implement the provi-
3 sions of this section by program instruction or otherwise.

4 (e) *WAIVER AUTHORITY.*—The Secretary may waive
5 such requirements of titles XI and XVIII of the Social Secu-
6 rity Act as may be necessary to carry out the program.

7 (f) *FUNDING.*—For purposes of carrying out this sec-
8 tion, the Secretary of Health and Human Services shall
9 provide for the transfer, from the Federal Hospital Insur-
10 ance Trust Fund under section 1817 of the Social Security
11 Act (42 U.S.C. 1395i) and the Federal Supplementary Med-
12 ical Insurance Trust Fund under section 1841 of such Act
13 (42 U.S.C. 1395t), in such proportion as the Secretary de-
14 termines appropriate, of \$500,000,000, to the Centers for
15 Medicare & Medicaid Services Program Management Ac-
16 count for the period of fiscal years 2011 through 2015.
17 Amounts transferred under the preceding sentence shall re-
18 main available until expended.

19 **SEC. 3027. EXTENSION OF GAINSHARING DEMONSTRATION.**

20 (a) *IN GENERAL.*—Subsection (d)(3) of section 5007
21 of the Deficit Reduction Act of 2005 (Public Law 109–171)
22 is amended by inserting “(or September 30, 2011, in the
23 case of a demonstration project in operation as of October
24 1, 2008)” after “December 31, 2009”.

25 (b) *FUNDING.*—

1 (1) *IN GENERAL.*—Subsection (f)(1) of such sec-
2 tion is amended by inserting “and for fiscal year
3 2010, \$1,600,000,” after “\$6,000,000.”

4 (2) *AVAILABILITY.*—Subsection (f)(2) of such sec-
5 tion is amended by striking “2010” and inserting
6 “2014 or until expended”.

7 (c) *REPORTS.*—

8 (1) *QUALITY IMPROVEMENT AND SAVINGS.*—Sub-
9 section (e)(3) of such section is amended by striking
10 “December 1, 2008” and inserting “March 31, 2011”.

11 (2) *FINAL REPORT.*—Subsection (e)(4) of such
12 section is amended by striking “May 1, 2010” and
13 inserting “March 31, 2013”.

14 ***Subtitle B—Improving Medicare for***
15 ***Patients and Providers***

16 ***PART I—ENSURING BENEFICIARY ACCESS TO***
17 ***PHYSICIAN CARE AND OTHER SERVICES***

18 ***SEC. 3101. INCREASE IN THE PHYSICIAN PAYMENT UPDATE.***

19 Section 1848(d) of the Social Security Act (42 U.S.C.
20 1395w-4(d)) is amended by adding at the end the following
21 new paragraph:

22 “(10) *UPDATE FOR 2010.*—

23 “(A) *IN GENERAL.*—Subject to paragraphs
24 (7)(B), (8)(B), and (9)(B), in lieu of the update
25 to the single conversion factor established in

1 paragraph (1)(C) that would otherwise apply for
 2 2010, the update to the single conversion factor
 3 shall be 0.5 percent.

4 “(B) NO EFFECT ON COMPUTATION OF CON-
 5 VERSION FACTOR FOR 2011 AND SUBSEQUENT
 6 YEARS.—The conversion factor under this sub-
 7 section shall be computed under paragraph
 8 (1)(A) for 2011 and subsequent years as if sub-
 9 paragraph (A) had never applied.”.

10 **SEC. 3102. EXTENSION OF THE WORK GEOGRAPHIC INDEX**
 11 **FLOOR AND REVISIONS TO THE PRACTICE EX-**
 12 **PENSE GEOGRAPHIC ADJUSTMENT UNDER**
 13 **THE MEDICARE PHYSICIAN FEE SCHEDULE.**

14 (a) *EXTENSION OF WORK GPCI FLOOR.*—Section
 15 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-
 16 4(e)(1)(E)) is amended by striking “before January 1,
 17 2010” and inserting “before January 1, 2011”.

18 (b) *PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT*
 19 *FOR 2010 AND SUBSEQUENT YEARS.*—Section 1848(e)(1) of
 20 the Social Security Act (42 U.S.C. 1395w4(e)(1)) is amend-
 21 ed—

22 (1) in subparagraph (A), by striking “and (G)”
 23 and inserting “(G), and (H)”; and

24 (2) by adding at the end the following new sub-
 25 paragraph:

1 “(H) *PRACTICE EXPENSE GEOGRAPHIC AD-*
2 *JUSTMENT FOR 2010 AND SUBSEQUENT YEARS.—*

3 “(i) *FOR 2010.—Subject to clause (iii),*
4 *for services furnished during 2010, the em-*
5 *ployee wage and rent portions of the prac-*
6 *tice expense geographic index described in*
7 *subparagraph (A)(i) shall reflect $\frac{3}{4}$ of the*
8 *difference between the relative costs of em-*
9 *ployee wages and rents in each of the dif-*
10 *ferent fee schedule areas and the national*
11 *average of such employee wages and rents.*

12 “(ii) *FOR 2011.—Subject to clause (iii),*
13 *for services furnished during 2011, the em-*
14 *ployee wage and rent portions of the prac-*
15 *tice expense geographic index described in*
16 *subparagraph (A)(i) shall reflect $\frac{1}{2}$ of the*
17 *difference between the relative costs of em-*
18 *ployee wages and rents in each of the dif-*
19 *ferent fee schedule areas and the national*
20 *average of such employee wages and rents.*

21 “(iii) *HOLD HARMLESS.—The practice*
22 *expense portion of the geographic adjust-*
23 *ment factor applied in a fee schedule area*
24 *for services furnished in 2010 or 2011 shall*
25 *not, as a result of the application of clause*

1 *(i) or (ii), be reduced below the practice ex-*
2 *penditure portion of the geographic adjustment*
3 *factor under subparagraph (A)(i) (as cal-*
4 *culated prior to the application of such*
5 *clause (i) or (ii), respectively) for such area*
6 *for such year.*

7 “(iv) ANALYSIS.—*The Secretary shall*
8 *analyze current methods of establishing*
9 *practice expense geographic adjustments*
10 *under subparagraph (A)(i) and evaluate*
11 *data that fairly and reliably establishes dis-*
12 *tinctions in the costs of operating a medical*
13 *practice in the different fee schedule areas.*
14 *Such analysis shall include an evaluation of*
15 *the following:*

16 “(I) *The feasibility of using ac-*
17 *tual data or reliable survey data devel-*
18 *oped by medical organizations on the*
19 *costs of operating a medical practice,*
20 *including office rents and non-physi-*
21 *cian staff wages, in different fee sched-*
22 *ule areas.*

23 “(II) *The office expense portion of*
24 *the practice expense geographic adjust-*
25 *ment described in subparagraph (A)(i),*

1 *including the extent to which types of*
2 *office expenses are determined in local*
3 *markets instead of national markets.*

4 “(III) *The weights assigned to*
5 *each of the categories within the prac-*
6 *tice expense geographic adjustment de-*
7 *scribed in subparagraph (A)(i).*

8 “(v) *REVISION FOR 2012 AND SUBSE-*
9 *QUENT YEARS.—As a result of the analysis*
10 *described in clause (iv), the Secretary shall,*
11 *not later than January 1, 2012, make ap-*
12 *propriate adjustments to the practice ex-*
13 *perience geographic adjustment described in*
14 *subparagraph (A)(i) to ensure accurate geo-*
15 *graphic adjustments across fee schedule*
16 *areas, including—*

17 “(I) *basing the office rents compo-*
18 *nent and its weight on office expenses*
19 *that vary among fee schedule areas;*
20 *and*

21 “(II) *considering a representative*
22 *range of professional and non-profes-*
23 *sional personnel employed in a med-*
24 *ical office based on the use of the*
25 *American Community Survey data or*

1 *other reliable data for wage adjust-*
2 *ments.*

3 *Such adjustments shall be made without re-*
4 *gard to adjustments made pursuant to*
5 *clauses (i) and (ii) and shall be made in a*
6 *budget neutral manner.”.*

7 **SEC. 3103. EXTENSION OF EXCEPTIONS PROCESS FOR**
8 **MEDICARE THERAPY CAPS.**

9 *Section 1833(g)(5) of the Social Security Act (42*
10 *U.S.C. 1395l(g)(5)) is amended by striking “December 31,*
11 *2009” and inserting “December 31, 2010”.*

12 **SEC. 3104. EXTENSION OF PAYMENT FOR TECHNICAL COM-**
13 **ONENT OF CERTAIN PHYSICIAN PATHOLOGY**
14 **SERVICES.**

15 *Section 542(c) of the Medicare, Medicaid, and SCHIP*
16 *Benefits Improvement and Protection Act of 2000 (as en-*
17 *acted into law by section 1(a)(6) of Public Law 106–554),*
18 *as amended by section 732 of the Medicare Prescription*
19 *Drug, Improvement, and Modernization Act of 2003 (42*
20 *U.S.C. 1395w–4 note), section 104 of division B of the Tax*
21 *Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4*
22 *note), section 104 of the Medicare, Medicaid, and SCHIP*
23 *Extension Act of 2007 (Public Law 110–173), and section*
24 *136 of the Medicare Improvements for Patients and Pro-*

1 *viders Act of 2008 (Public Law 110–275), is amended by*
2 *striking “and 2009” and inserting “2009, and 2010”.*

3 **SEC. 3105. EXTENSION OF AMBULANCE ADD-ONS.**

4 (a) *GROUND AMBULANCE.*—*Section 1834(l)(13)(A) of*
5 *the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is*
6 *amended—*

7 (1) *in the matter preceding clause (i)—*

8 (A) *by striking “2007, and for” and insert-*
9 *ing “2007, for”; and*

10 (B) *by striking “2010” and inserting*
11 *“2010, and for such services furnished on or*
12 *after April 1, 2010, and before January 1,*
13 *2011,”; and*

14 (2) *in each of clauses (i) and (ii), by inserting*
15 *“, and on or after April 1, 2010, and before January*
16 *1, 2011” after “January 1, 2010” each place it ap-*
17 *pears.*

18 (b) *AIR AMBULANCE.*—*Section 146(b)(1) of the Medi-*
19 *care Improvements for Patients and Providers Act of 2008*
20 *(Public Law 110–275) is amended by striking “December*
21 *31, 2009” and inserting “December 31, 2009, and during*
22 *the period beginning on April 1, 2010, and ending on Janu-*
23 *ary 1, 2011”.*

24 (c) *SUPER RURAL AMBULANCE.*—*Section*
25 *1834(l)(12)(A) of the Social Security Act (42 U.S.C.*

1 1395m(l)(12)(A)) is amended by striking “2010” and in-
2 serting “2010, and on or after April 1, 2010, and before
3 January 1, 2011”.

4 **SEC. 3106. EXTENSION OF CERTAIN PAYMENT RULES FOR**
5 **LONG-TERM CARE HOSPITAL SERVICES AND**
6 **OF MORATORIUM ON THE ESTABLISHMENT**
7 **OF CERTAIN HOSPITALS AND FACILITIES.**

8 (a) *EXTENSION OF CERTAIN PAYMENT RULES.*—Sec-
9 tion 114(c) of the Medicare, Medicaid, and SCHIP Exten-
10 sion Act of 2007 (42 U.S.C. 1395ww note), as amended by
11 section 4302(a) of the American Recovery and Reinvestment
12 Act (Public Law 111–5), is further amended by striking
13 “3-year period” each place it appears and inserting “4-year
14 period”.

15 (b) *EXTENSION OF MORATORIUM.*—Section 114(d)(1)
16 of such Act (42 U.S.C. 1395ww note), in the matter pre-
17 ceding subparagraph (A), is amended by striking “3-year
18 period” and inserting “4-year period”.

19 **SEC. 3107. EXTENSION OF PHYSICIAN FEE SCHEDULE MEN-**
20 **TAL HEALTH ADD-ON.**

21 Section 138(a)(1) of the Medicare Improvements for
22 Patients and Providers Act of 2008 (Public Law 110–275)
23 is amended by striking “December 31, 2009” and inserting
24 “December 31, 2010”.

1 **SEC. 3108. PERMITTING PHYSICIAN ASSISTANTS TO ORDER**
2 **POST-HOSPITAL EXTENDED CARE SERVICES.**

3 (a) *ORDERING POST-HOSPITAL EXTENDED CARE*
4 *SERVICES.*—

5 (1) *IN GENERAL.*—Section 1814(a)(2) of the So-
6 cial Security Act (42 U.S.C. 1395f(a)(2)), in the mat-
7 ter preceding subparagraph (A), is amended by strik-
8 ing “or clinical nurse specialist” and inserting “, a
9 clinical nurse specialist, or a physician assistant (as
10 those terms are defined in section 1861(aa)(5))” after
11 “nurse practitioner”.

12 (2) *CONFORMING AMENDMENT.*—Section 1814(a)
13 of the Social Security Act (42 U.S.C. 1395f(a)) is
14 amended, in the second sentence, by striking “or clin-
15 ical nurse specialist” and inserting “clinical nurse
16 specialist, or physician assistant” after “nurse practi-
17 tioner,”.

18 (b) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply to items and services furnished on or
20 after January 1, 2011.

21 **SEC. 3109. EXEMPTION OF CERTAIN PHARMACIES FROM AC-**
22 **CREDITATION REQUIREMENTS.**

23 (a) *IN GENERAL.*—Section 1834(a)(20) of the Social
24 Security Act (42 U.S.C. 1395m(a)(20)), as added by section
25 154(b)(1)(A) of the Medicare Improvements for Patients

1 *and Providers Act of 2008 (Public Law 100–275), is*
2 *amended—*

3 *(1) in subparagraph (F)(i)—*

4 *(A) by inserting “and subparagraph (G)”*
5 *after “clause (ii)”;* and

6 *(B) by inserting “, except that the Secretary*
7 *shall not require a pharmacy to have submitted*
8 *to the Secretary such evidence of accreditation*
9 *prior to January 1, 2011” before the semicolon*
10 *at the end; and*

11 *(2) by adding at the end the following new sub-*
12 *paragraph:*

13 *“(G) APPLICATION OF ACCREDITATION RE-*
14 *QUIREMENT TO CERTAIN PHARMACIES.—*

15 *“(i) IN GENERAL.—With respect to*
16 *items and services furnished on or after*
17 *January 1, 2011, in implementing quality*
18 *standards under this paragraph—*

19 *“(I) subject to subclause (II), in*
20 *applying such standards and the ac-*
21 *creditation requirement of subpara-*
22 *graph (F)(i) with respect to phar-*
23 *macies described in clause (ii) fur-*
24 *nishing such items and services, such*
25 *standards and accreditation require-*

1 *ment shall not apply to such phar-*
2 *macies; and*

3 *“(II) the Secretary may apply to*
4 *such pharmacies an alternative accred-*
5 *itation requirement established by the*
6 *Secretary if the Secretary determines*
7 *such alternative accreditation require-*
8 *ment is more appropriate for such*
9 *pharmacies.*

10 *“(ii) PHARMACIES DESCRIBED.—A*
11 *pharmacy described in this clause is a*
12 *pharmacy that meets each of the following*
13 *criteria:*

14 *“(I) The total billings by the*
15 *pharmacy for such items and services*
16 *under this title are less than 5 percent*
17 *of total pharmacy sales, as determined*
18 *based on the average total pharmacy*
19 *sales for the previous 3 calendar years,*
20 *3 fiscal years, or other yearly period*
21 *specified by the Secretary.*

22 *“(II) The pharmacy has been en-*
23 *rolled under section 1866(j) as a sup-*
24 *plier of durable medical equipment,*
25 *prosthetics, orthotics, and supplies, has*

1 *been issued (which may include the re-*
2 *newal of) a provider number for at*
3 *least 5 years, and for which a final ad-*
4 *verse action (as defined in section*
5 *424.57(a) of title 42, Code of Federal*
6 *Regulations) has not been imposed in*
7 *the past 5 years.*

8 *“(III) The pharmacy submits to*
9 *the Secretary an attestation, in a form*
10 *and manner, and at a time, specified*
11 *by the Secretary, that the pharmacy*
12 *meets the criteria described in sub-*
13 *clauses (I) and (II). Such attestation*
14 *shall be subject to section 1001 of title*
15 *18, United States Code.*

16 *“(IV) The pharmacy agrees to*
17 *submit materials as requested by the*
18 *Secretary, or during the course of an*
19 *audit conducted on a random sample*
20 *of pharmacies selected annually, to*
21 *verify that the pharmacy meets the cri-*
22 *teria described in subclauses (I) and*
23 *(II). Materials submitted under the*
24 *preceding sentence shall include a cer-*
25 *tification by an accountant on behalf*

1 of the pharmacy or the submission of
2 tax returns filed by the pharmacy dur-
3 ing the relevant periods, as requested
4 by the Secretary.”.

5 (b) *ADMINISTRATION.*—Notwithstanding any other
6 provision of law, the Secretary may implement the amend-
7 ments made by subsection (a) by program instruction or
8 otherwise.

9 (c) *RULE OF CONSTRUCTION.*—Nothing in the provi-
10 sions of or amendments made by this section shall be con-
11 strued as affecting the application of an accreditation re-
12 quirement for pharmacies to qualify for bidding in a com-
13 petitive acquisition area under section 1847 of the Social
14 Security Act (42 U.S.C. 1395w-3).

15 **SEC. 3110. PART B SPECIAL ENROLLMENT PERIOD FOR DIS-**
16 **ABLED TRICARE BENEFICIARIES.**

17 (a) *IN GENERAL.*—

18 (1) *IN GENERAL.*—Section 1837 of the Social Se-
19 curity Act (42 U.S.C. 1395p) is amended by adding
20 at the end the following new subsection:

21 “(l)(1) *In the case of any individual who is a covered*
22 *beneficiary (as defined in section 1072(5) of title 10, United*
23 *States Code) at the time the individual is entitled to part*
24 *A under section 226(b) or section 226A and who is eligible*
25 *to enroll but who has elected not to enroll (or to be deemed*

1 enrolled) during the individual's initial enrollment period,
2 there shall be a special enrollment period described in para-
3 graph (2).

4 “(2) The special enrollment period described in this
5 paragraph, with respect to an individual, is the 12-month
6 period beginning on the day after the last day of the initial
7 enrollment period of the individual or, if later, the 12-
8 month period beginning with the month the individual is
9 notified of enrollment under this section.

10 “(3) In the case of an individual who enrolls during
11 the special enrollment period provided under paragraph
12 (1), the coverage period under this part shall begin on the
13 first day of the month in which the individual enrolls, or,
14 at the option of the individual, the first month after the
15 end of the individual's initial enrollment period.

16 “(4) An individual may only enroll during the special
17 enrollment period provided under paragraph (1) one time
18 during the individual's lifetime.

19 “(5) The Secretary shall ensure that the materials re-
20 lating to coverage under this part that are provided to an
21 individual described in paragraph (1) prior to the individ-
22 ual's initial enrollment period contain information con-
23 cerning the impact of not enrolling under this part, includ-
24 ing the impact on health care benefits under the TRICARE
25 program under chapter 55 of title 10, United States Code.

1 “(6) *The Secretary of Defense shall collaborate with*
2 *the Secretary of Health and Human Services and the Com-*
3 *missioner of Social Security to provide for the accurate*
4 *identification of individuals described in paragraph (1).*
5 *The Secretary of Defense shall provide such individuals*
6 *with notification with respect to this subsection. The Sec-*
7 *retary of Defense shall collaborate with the Secretary of*
8 *Health and Human Services and the Commissioner of So-*
9 *cial Security to ensure appropriate follow up pursuant to*
10 *any notification provided under the preceding sentence.”.*

11 (2) *EFFECTIVE DATE.*—*The amendment made by*
12 *paragraph (1) shall apply to elections made with re-*
13 *spect to initial enrollment periods that end after the*
14 *date of the enactment of this Act.*

15 (b) *WAIVER OF INCREASE OF PREMIUM.*—*Section*
16 *1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is*
17 *amended by striking “section 1837(i)(4)” and inserting*
18 *“subsection (i)(4) or (l) of section 1837”.*

19 **SEC. 3111. PAYMENT FOR BONE DENSITY TESTS.**

20 (a) *PAYMENT.*—

21 (1) *IN GENERAL.*—*Section 1848 of the Social Se-*
22 *curity Act (42 U.S.C. 1395w-4) is amended—*

23 (A) *in subsection (b)—*

24 (i) *in paragraph (4)(B), by inserting*
25 “*, and for 2010 and 2011, dual-energy x-*

1 *ray absorptiometry services (as described in*
2 *paragraph (6))” before the period at the*
3 *end; and*

4 *(ii) by adding at the end the following*
5 *new paragraph:*

6 “(6) *TREATMENT OF BONE MASS SCANS.—For*
7 *dual-energy x-ray absorptiometry services (identified*
8 *in 2006 by HCPCS codes 76075 and 76077 (and any*
9 *succeeding codes)) furnished during 2010 and 2011,*
10 *instead of the payment amount that would otherwise*
11 *be determined under this section for such years, the*
12 *payment amount shall be equal to 70 percent of the*
13 *product of—*

14 “(A) *the relative value for the service (as de-*
15 *termined in subsection (c)(2)) for 2006;*

16 “(B) *the conversion factor (established*
17 *under subsection (d)) for 2006; and*

18 “(C) *the geographic adjustment factor (es-*
19 *tablished under subsection (e)(2)) for the service*
20 *for the fee schedule area for 2010 and 2011, re-*
21 *spectively.”; and*

22 (B) *in subsection (c)(2)(B)(iv)—*

23 *(i) in subclause (II), by striking “and”*
24 *at the end;*

1 (ii) in subclause (III), by striking the
2 period at the end and inserting “; and”;
3 and

4 (iii) by adding at the end the following
5 new subclause:

6 “(IV) subsection (b)(6) shall not
7 be taken into account in applying
8 clause (ii)(II) for 2010 or 2011.”.

9 (2) *IMPLEMENTATION.*—Notwithstanding any
10 other provision of law, the Secretary may implement
11 the amendments made by paragraph (1) by program
12 instruction or otherwise.

13 (b) *STUDY AND REPORT BY THE INSTITUTE OF MEDI-*
14 *CINE.*—

15 (1) *IN GENERAL.*—The Secretary of Health and
16 Human Services is authorized to enter into an agree-
17 ment with the Institute of Medicine of the National
18 Academies to conduct a study on the ramifications of
19 Medicare payment reductions for dual-energy x-ray
20 absorptiometry (as described in section 1848(b)(6) of
21 the Social Security Act, as added by subsection
22 (a)(1)) during 2007, 2008, and 2009 on beneficiary
23 access to bone mass density tests.

24 (2) *REPORT.*—An agreement entered into under
25 paragraph (1) shall provide for the Institute of Medi-

1 *cine to submit to the Secretary and to Congress a re-*
2 *port containing the results of the study conducted*
3 *under such paragraph.*

4 **SEC. 3112. REVISION TO THE MEDICARE IMPROVEMENT**
5 **FUND.**

6 *Section 1898(b)(1)(A) of the Social Security Act (42*
7 *U.S.C. 1395iii) is amended by striking “\$22,290,000,000”*
8 *and inserting “\$0”.*

9 **SEC. 3113. TREATMENT OF CERTAIN COMPLEX DIAGNOSTIC**
10 **LABORATORY TESTS.**

11 *(a) DEMONSTRATION PROJECT.—*

12 *(1) IN GENERAL.—The Secretary of Health and*
13 *Human Services (in this section referred to as the*
14 *“Secretary”) shall conduct a demonstration project*
15 *under part B title XVIII of the Social Security Act*
16 *under which separate payments are made under such*
17 *part for complex diagnostic laboratory tests provided*
18 *to individuals under such part. Under the demonstra-*
19 *tion project, the Secretary shall establish appropriate*
20 *payment rates for such tests.*

21 *(2) COVERED COMPLEX DIAGNOSTIC LABORATORY*
22 *TEST DEFINED.—In this section, the term “complex*
23 *diagnostic laboratory test” means a diagnostic lab-*
24 *oratory test—*

1 (A) that is an analysis of gene protein ex-
2 pression, topographic genotyping, or a cancer
3 chemotherapy sensitivity assay;

4 (B) that is determined by the Secretary to
5 be a laboratory test for which there is not an al-
6 ternative test having equivalent performance
7 characteristics;

8 (C) which is billed using a Health Care
9 Procedure Coding System (HCPCS) code other
10 than a not otherwise classified code under such
11 Coding System;

12 (D) which is approved or cleared by the
13 Food and Drug Administration or is covered
14 under title XVIII of the Social Security Act; and

15 (E) is described in section 1861(s)(3) of the
16 Social Security Act (42 U.S.C. 1395x(s)(3)).

17 (3) *SEPARATE PAYMENT DEFINED.*—In this sec-
18 tion, the term “separate payment” means direct pay-
19 ment to a laboratory (including a hospital-based or
20 independent laboratory) that performs a complex di-
21 agnostic laboratory test with respect to a specimen
22 collected from an individual during a period in which
23 the individual is a patient of a hospital if the test is
24 performed after such period of hospitalization and if
25 separate payment would not otherwise be made under

1 *title XVIII of the Social Security Act by reason of*
2 *sections 1862(a)(14) and 1866(a)(1)(H)(i) of the such*
3 *Act (42 U.S.C. 1395y(a)(14); 42 U.S.C.*
4 *1395cc(a)(1)(H)(i)).*

5 *(b) DURATION.—Subject to subsection (c)(2), the Sec-*
6 *retary shall conduct the demonstration project under this*
7 *section for the 2-year period beginning on July 1, 2011.*

8 *(c) PAYMENTS AND LIMITATION.—Payments under the*
9 *demonstration project under this section shall—*

10 *(1) be made from the Federal Supplemental Med-*
11 *ical Insurance Trust Fund under section 1841 of the*
12 *Social Security Act (42 U.S.C. 1395t); and*

13 *(2) may not exceed \$100,000,000.*

14 *(d) REPORT.—Not later than 2 years after the comple-*
15 *tion of the demonstration project under this section, the Sec-*
16 *retary shall submit to Congress a report on the project. Such*
17 *report shall include—*

18 *(1) an assessment of the impact of the dem-*
19 *onstration project on access to care, quality of care,*
20 *health outcomes, and expenditures under title XVIII*
21 *of the Social Security Act (including any savings*
22 *under such title); and*

23 *(2) such recommendations as the Secretary deter-*
24 *mines appropriate.*

1 (e) *IMPLEMENTATION FUNDING.*—For purposes of ad-
 2 ministering this section (including preparing and submit-
 3 ting the report under subsection (d)), the Secretary shall
 4 provide for the transfer, from the Federal Supplemental
 5 Medical Insurance Trust Fund under section 1841 of the
 6 Social Security Act (42 U.S.C. 1395t), to the Centers for
 7 Medicare & Medicaid Services Program Management Ac-
 8 count, of \$5,000,000. Amounts transferred under the pre-
 9 ceding sentence shall remain available until expended.

10 **SEC. 3114. IMPROVED ACCESS FOR CERTIFIED NURSE-MID-**
 11 **WIFE SERVICES.**

12 Section 1833(a)(1)(K) of the Social Security Act (42
 13 U.S.C. 1395l(a)(1)(K)) is amended by inserting “(or 100
 14 percent for services furnished on or after January 1, 2011)”
 15 after “1992, 65 percent”.

16 **PART II—RURAL PROTECTIONS**

17 **SEC. 3121. EXTENSION OF OUTPATIENT HOLD HARMLESS**
 18 **PROVISION.**

19 (a) *IN GENERAL.*—Section 1833(t)(7)(D)(i) of the So-
 20 cial Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amend-
 21 ed—

22 (1) in subclause (II)—

23 (A) in the first sentence, by striking
 24 “2010” and inserting “2011”; and

1 (B) in the second sentence, by striking “or
2 2009” and inserting “, 2009, or 2010”; and
3 (2) in subclause (III), by striking “January 1,
4 2010” and inserting “January 1, 2011”.

5 (b) *PERMITTING ALL SOLE COMMUNITY HOSPITALS*
6 *TO BE ELIGIBLE FOR HOLD HARMLESS.*—Section
7 *1833(t)(7)(D)(i)(III) of the Social Security Act (42 U.S.C.*
8 *1395l(t)(7)(D)(i)(III)) is amended by adding at the end the*
9 *following new sentence: “In the case of covered OPD services*
10 *furnished on or after January 1, 2010, and before January*
11 *1, 2011, the preceding sentence shall be applied without re-*
12 *gard to the 100-bed limitation.”.*

13 **SEC. 3122. EXTENSION OF MEDICARE REASONABLE COSTS**
14 **PAYMENTS FOR CERTAIN CLINICAL DIAG-**
15 **NOSTIC LABORATORY TESTS FURNISHED TO**
16 **HOSPITAL PATIENTS IN CERTAIN RURAL**
17 **AREAS.**

18 Section 416(b) of the Medicare Prescription Drug, Im-
19 provement, and Modernization Act of 2003 (42 U.S.C.
20 1395l–4), as amended by section 105 of division B of the
21 Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395l
22 note) and section 107 of the Medicare, Medicaid, and
23 SCHIP Extension Act of 2007 (42 U.S.C. 1395l note), is
24 amended by inserting “or during the 1-year period begin-
25 ning on July 1, 2010” before the period at the end.

1 **SEC. 3123. EXTENSION OF THE RURAL COMMUNITY HOS-**
2 **PITAL DEMONSTRATION PROGRAM.**

3 (a) *ONE-YEAR EXTENSION.*—Section 410A of the Medi-
4 care Prescription Drug, Improvement, and Modernization
5 Act of 2003 (Public Law 108–173; 117 Stat. 2272) is
6 amended by adding at the end the following new subsection:

7 “(g) *ONE-YEAR EXTENSION OF DEMONSTRATION PRO-*
8 *GRAM.*—

9 “(1) *IN GENERAL.*—Subject to the succeeding
10 provisions of this subsection, the Secretary shall con-
11 duct the demonstration program under this section for
12 an additional 1-year period (in this section referred
13 to as the ‘1-year extension period’) that begins on the
14 date immediately following the last day of the initial
15 5-year period under subsection (a)(5).

16 “(2) *EXPANSION OF DEMONSTRATION STATES.*—
17 Notwithstanding subsection (a)(2), during the 1-year
18 extension period, the Secretary shall expand the num-
19 ber of States with low population densities deter-
20 mined by the Secretary under such subsection to 20.
21 In determining which States to include in such ex-
22 pansion, the Secretary shall use the same criteria and
23 data that the Secretary used to determine the States
24 under such subsection for purposes of the initial 5-
25 year period.

1 “(3) *INCREASE IN MAXIMUM NUMBER OF HOS-*
2 *PITALS PARTICIPATING IN THE DEMONSTRATION PRO-*
3 *GRAM.—Notwithstanding subsection (a)(4), during the*
4 *1-year extension period, not more than 30 rural com-*
5 *munity hospitals may participate in the demonstra-*
6 *tion program under this section.*

7 “(4) *NO AFFECT ON HOSPITALS IN DEMONSTRA-*
8 *TION PROGRAM ON DATE OF ENACTMENT.—In the case*
9 *of a rural community hospital that is participating*
10 *in the demonstration program under this section as*
11 *of the last day of the initial 5-year period, the Sec-*
12 *retary shall provide for the continued participation of*
13 *such rural community hospital in the demonstration*
14 *program during the 1-year extension period unless the*
15 *rural community hospital makes an election, in such*
16 *form and manner as the Secretary may specify, to*
17 *discontinue such participation.”.*

18 “(b) *CONFORMING AMENDMENTS.—Subsection (a)(5) of*
19 *section 410A of the Medicare Prescription Drug, Improve-*
20 *ment, and Modernization Act of 2003 (Public Law 108-*
21 *173; 117 Stat. 2272) is amended by inserting “(in this sec-*
22 *tion referred to as the ‘initial 5-year period’) and, as pro-*
23 *vided in subsection (g), for the 1-year extension period”*
24 *after “5-year period”.*

25 “(c) *TECHNICAL AMENDMENTS.—*

1 (1) *Subsection (b) of section 410A of the Medi-*
2 *care Prescription Drug, Improvement, and Mod-*
3 *ernization Act of 2003 (Public Law 108–173; 117*
4 *Stat. 2272) is amended—*

5 (A) *in paragraph (1)(B)(ii), by striking*
6 *“2)” and inserting “2))”;* and

7 (B) *in paragraph (2), by inserting “cost”*
8 *before “reporting period” the first place such*
9 *term appears in each of subparagraphs (A) and*
10 *(B).*

11 (2) *Subsection (f)(1) of section 410A of the Medi-*
12 *care Prescription Drug, Improvement, and Mod-*
13 *ernization Act of 2003 (Public Law 108–173; 117*
14 *Stat. 2272) is amended—*

15 (A) *in subparagraph (A)(ii), by striking*
16 *“paragraph (2)” and inserting “subparagraph*
17 *(B)”;* and

18 (B) *in subparagraph (B), by striking*
19 *“paragraph (1)(B)” and inserting “subpara-*
20 *graph (A)(ii)”.*

21 **SEC. 3124. EXTENSION OF THE MEDICARE-DEPENDENT**
22 **HOSPITAL (MDH) PROGRAM.**

23 (a) *EXTENSION OF PAYMENT METHODOLOGY.—Sec-*
24 *tion 1886(d)(5)(G) of the Social Security Act (42 U.S.C.*
25 *1395ww(d)(5)(G)) is amended—*

1 (1) *in clause (i), by striking “October 1, 2011”*
2 *and inserting “October 1, 2012”; and*

3 (2) *in clause (ii)(II), by striking “October 1,*
4 *2011” and inserting “October 1, 2012”.*

5 *(b) CONFORMING AMENDMENTS.—*

6 (1) *EXTENSION OF TARGET AMOUNT.—Section*
7 *1886(b)(3)(D) of the Social Security Act (42 U.S.C.*
8 *1395ww(b)(3)(D)) is amended—*

9 (A) *in the matter preceding clause (i), by*
10 *striking “October 1, 2011” and inserting “Octo-*
11 *ber 1, 2012”; and*

12 (B) *in clause (iv), by striking “through fis-*
13 *cal year 2011” and inserting “through fiscal*
14 *year 2012”.*

15 (2) *PERMITTING HOSPITALS TO DECLINE RE-*
16 *CLASSIFICATION.—Section 13501(e)(2) of the Omni-*
17 *bus Budget Reconciliation Act of 1993 (42 U.S.C.*
18 *1395ww note) is amended by striking “through fiscal*
19 *year 2011” and inserting “through fiscal year 2012”.*

20 **SEC. 3125. TEMPORARY IMPROVEMENTS TO THE MEDICARE**

21 **INPATIENT HOSPITAL PAYMENT ADJUST-**
22 **MENT FOR LOW-VOLUME HOSPITALS.**

23 *Section 1886(d)(12) of the Social Security Act (42*
24 *U.S.C. 1395ww(d)(12)) is amended—*

1 (1) *in subparagraph (A), by inserting “or (D)”*
2 *after “subparagraph (B)”;*

3 (2) *in subparagraph (B), in the matter pre-*
4 *ceding clause (i), by striking “The Secretary” and in-*
5 *serting “For discharges occurring in fiscal years 2005*
6 *through 2010 and for discharges occurring in fiscal*
7 *year 2013 and subsequent fiscal years, the Secretary”;*

8 (3) *in subparagraph (C)(i)—*

9 (A) *by inserting “(or, with respect to fiscal*
10 *years 2011 and 2012, 15 road miles)” after “25*
11 *road miles”;* and

12 (B) *by inserting “(or, with respect to fiscal*
13 *years 2011 and 2012, 1,500 discharges of indi-*
14 *viduals entitled to, or enrolled for, benefits under*
15 *part A)” after “800 discharges”;* and

16 (4) *by adding at the end the following new sub-*
17 *paragraph:*

18 “(D) *TEMPORARY APPLICABLE PERCENTAGE*
19 *INCREASE.—For discharges occurring in fiscal*
20 *years 2011 and 2012, the Secretary shall deter-*
21 *mine an applicable percentage increase for pur-*
22 *poses of subparagraph (A) using a continuous*
23 *linear sliding scale ranging from 25 percent for*
24 *low-volume hospitals with 200 or fewer dis-*
25 *charges of individuals entitled to, or enrolled for,*

1 *benefits under part A in the fiscal year to 0 per-*
2 *cent for low-volume hospitals with greater than*
3 *1,500 discharges of such individuals in the fiscal*
4 *year.”.*

5 **SEC. 3126. IMPROVEMENTS TO THE DEMONSTRATION**
6 **PROJECT ON COMMUNITY HEALTH INTEGRA-**
7 **TION MODELS IN CERTAIN RURAL COUNTIES.**

8 *(a) REMOVAL OF LIMITATION ON NUMBER OF ELIGI-*
9 *BLE COUNTIES SELECTED.—Subsection (d)(3) of section*
10 *123 of the Medicare Improvements for Patients and Pro-*
11 *viders Act of 2008 (42 U.S.C. 1395i–4 note) is amended*
12 *by striking “not more than 6”.*

13 *(b) REMOVAL OF REFERENCES TO RURAL HEALTH*
14 *CLINIC SERVICES AND INCLUSION OF PHYSICIANS’ SERV-*
15 *ICES IN SCOPE OF DEMONSTRATION PROJECT.—Such sec-*
16 *tion 123 is amended—*

17 *(1) in subsection (d)(4)(B)(i)(3), by striking sub-*
18 *clause (III); and*

19 *(2) in subsection (j)—*

20 *(A) in paragraph (8), by striking subpara-*
21 *graph (B) and inserting the following:*

22 *“(B) Physicians’ services (as defined in sec-*
23 *tion 1861(q) of the Social Security Act (42*
24 *U.S.C. 1395x(q)).”;*

25 *(B) by striking paragraph (9); and*

1 (C) by redesignating paragraph (10) as
2 paragraph (9).

3 **SEC. 3127. MEDPAC STUDY ON ADEQUACY OF MEDICARE**
4 **PAYMENTS FOR HEALTH CARE PROVIDERS**
5 **SERVING IN RURAL AREAS.**

6 (a) *STUDY.*—The Medicare Payment Advisory Com-
7 mission shall conduct a study on the adequacy of payments
8 for items and services furnished by providers of services and
9 suppliers in rural areas under the Medicare program under
10 title XVIII of the Social Security Act (42 U.S.C. 1395 et
11 seq.). Such study shall include an analysis of—

12 (1) any adjustments in payments to providers of
13 services and suppliers that furnish items and services
14 in rural areas;

15 (2) access by Medicare beneficiaries to items and
16 services in rural areas;

17 (3) the adequacy of payments to providers of
18 services and suppliers that furnish items and services
19 in rural areas; and

20 (4) the quality of care furnished in rural areas.

21 (b) *REPORT.*—Not later than January 1, 2011, the
22 Medicare Payment Advisory Commission shall submit to
23 Congress a report containing the results of the study con-
24 ducted under subsection (a). Such report shall include rec-
25 ommendations on appropriate modifications to any adjust-

1 *ments in payments to providers of services and suppliers*
2 *that furnish items and services in rural areas, together with*
3 *recommendations for such legislation and administrative*
4 *action as the Medicare Payment Advisory Commission de-*
5 *termines appropriate.*

6 **SEC. 3128. TECHNICAL CORRECTION RELATED TO CRITICAL**
7 **ACCESS HOSPITAL SERVICES.**

8 (a) *IN GENERAL.*—Subsections (g)(2)(A) and (l)(8) of
9 *section 1834 of the Social Security Act (42 U.S.C. 1395m)*
10 *are each amended by inserting “101 percent of” before “the*
11 *reasonable costs”.*

12 (b) *EFFECTIVE DATE.*—The amendments made by sub-
13 *section (a) shall take effect as if included in the enactment*
14 *of section 405(a) of the Medicare Prescription Drug, Im-*
15 *provement, and Modernization Act of 2003 (Public Law*
16 *108–173; 117 Stat. 2266).*

17 **SEC. 3129. EXTENSION OF AND REVISIONS TO MEDICARE**
18 **RURAL HOSPITAL FLEXIBILITY PROGRAM.**

19 (a) *AUTHORIZATION.*—Section 1820(j) of the Social
20 *Security Act (42 U.S.C. 1395i–4(j)) is amended—*

21 (1) *by striking “2010, and for” and inserting*
22 *“2010, for”; and*

23 (2) *by inserting “and for making grants to all*
24 *States under subsection (g), such sums as may be nec-*
25 *essary in each of fiscal years 2011 and 2012, to re-*

1 *main available until expended” before the period at*
2 *the end.*

3 *(b) USE OF FUNDS.—Section 1820(g)(3) of the Social*
4 *Security Act (42 U.S.C. 1395i–4(g)(3)) is amended—*

5 *(1) in subparagraph (A), by inserting “and to*
6 *assist such hospitals in participating in delivery sys-*
7 *tem reforms under the provisions of and amendments*
8 *made by the Patient Protection and Affordable Care*
9 *Act, such as value-based purchasing programs, ac-*
10 *countable care organizations under section 1899, the*
11 *National pilot program on payment bundling under*
12 *section 1866D, and other delivery system reform pro-*
13 *grams determined appropriate by the Secretary” be-*
14 *fore the period at the end; and*

15 *(2) in subparagraph (E)—*

16 *(A) by striking “, and to offset” and insert-*
17 *ing “, to offset”; and*

18 *(B) by inserting “and to participate in de-*
19 *livery system reforms under the provisions of*
20 *and amendments made by the Patient Protection*
21 *and Affordable Care Act, such as value-based*
22 *purchasing programs, accountable care organiza-*
23 *tions under section 1899, the National pilot pro-*
24 *gram on payment bundling under section*
25 *1866D, and other delivery system reform pro-*

1 *grams determined appropriate by the Secretary”*
 2 *before the period at the end.*

3 *(c) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to grants made on or after January 1,*
 5 *2010.*

6 **PART III—IMPROVING PAYMENT ACCURACY**

7 **SEC. 3131. PAYMENT ADJUSTMENTS FOR HOME HEALTH**
 8 **CARE.**

9 *(a) REBASING HOME HEALTH PROSPECTIVE PAYMENT*
 10 *AMOUNT.—*

11 *(1) IN GENERAL.—Section 1895(b)(3)(A) of the*
 12 *Social Security Act (42 U.S.C. 1395fff(b)(3)(A)) is*
 13 *amended—*

14 *(A) in clause (i)(III), by striking “For peri-*
 15 *ods” and inserting “Subject to clause (iii), for*
 16 *periods”; and*

17 *(B) by adding at the end the following new*
 18 *clause:*

19 *“(iii) ADJUSTMENT FOR 2013 AND SUB-*
 20 *SEQUENT YEARS.—*

21 *“(I) IN GENERAL.—Subject to*
 22 *subclause (II), for 2013 and subsequent*
 23 *years, the amount (or amounts) that*
 24 *would otherwise be applicable under*
 25 *clause (i)(III) shall be adjusted by a*

1 *percentage determined appropriate by*
2 *the Secretary to reflect such factors as*
3 *changes in the number of visits in an*
4 *episode, the mix of services in an epi-*
5 *sode, the level of intensity of services in*
6 *an episode, the average cost of pro-*
7 *viding care per episode, and other fac-*
8 *tors that the Secretary considers to be*
9 *relevant. In conducting the analysis*
10 *under the preceding sentence, the Sec-*
11 *retary may consider differences be-*
12 *tween hospital-based and freestanding*
13 *agencies, between for-profit and non-*
14 *profit agencies, and between the re-*
15 *source costs of urban and rural agen-*
16 *cies. Such adjustment shall be made be-*
17 *fore the update under subparagraph*
18 *(B) is applied for the year.*

19 *“(II) TRANSITION.—The Sec-*
20 *retary shall provide for a 4-year phase-*
21 *in (in equal increments) of the adjust-*
22 *ment under subclause (I), with such*
23 *adjustment being fully implemented for*
24 *2016. During each year of such phase-*
25 *in, the amount of any adjustment*

1 *under subclause (I) for the year may*
2 *not exceed 3.5 percent of the amount*
3 *(or amounts) applicable under clause*
4 *(i)(III) as of the date of enactment of*
5 *the Patient Protection and Affordable*
6 *Care Act.”.*

7 (2) *MEDPAC STUDY AND REPORT.—*

8 (A) *STUDY.—The Medicare Payment Advi-*
9 *sory Commission shall conduct a study on the*
10 *implementation of the amendments made by*
11 *paragraph (1). Such study shall include an*
12 *analysis of the impact of such amendments on—*

13 (i) *access to care;*

14 (ii) *quality outcomes;*

15 (iii) *the number of home health agen-*
16 *cies; and*

17 (iv) *rural agencies, urban agencies,*
18 *for-profit agencies, and nonprofit agencies.*

19 (B) *REPORT.—Not later than January 1,*
20 *2015, the Medicare Payment Advisory Commis-*
21 *sion shall submit to Congress a report on the*
22 *study conducted under subparagraph (A), to-*
23 *gether with recommendations for such legislation*
24 *and administrative action as the Commission*
25 *determines appropriate.*

1 (b) *PROGRAM-SPECIFIC OUTLIER CAP.*—Section
2 *1895(b) of the Social Security Act (42 U.S.C. 1395fff(b))*
3 *is amended—*

4 (1) *in paragraph (3)(C), by striking “the aggregate” and all that follows through the period at the*
5 *end and inserting “5 percent of the total payments es-*
6 *timated to be made based on the prospective payment*
7 *system under this subsection for the period.”; and*

8 (2) *in paragraph (5)—*

9 (A) *by striking “OUTLIERS.—The Sec-*
10 *retary” and inserting the following:*

11 “OUTLIERS.—

12 “(A) *IN GENERAL.*—Subject to subpara-
13 *graph (B), the Secretary”;*

14 (B) *in subparagraph (A), as added by sub-*
15 *paragraph (A), by striking “5 percent” and in-*
16 *serting “2.5 percent”;* and

17 (C) *by adding at the end the following new*
18 *subparagraph:*

19 “(B) *PROGRAM SPECIFIC OUTLIER CAP.*—
20 *The estimated total amount of additional pay-*
21 *ments or payment adjustments made under sub-*
22 *paragraph (A) with respect to a home health*
23 *agency for a year (beginning with 2011) may*
24 *not exceed an amount equal to 10 percent of the*
25

1 *estimated total amount of payments made under*
2 *this section (without regard to this paragraph)*
3 *with respect to the home health agency for the*
4 *year.”.*

5 (c) *APPLICATION OF THE MEDICARE RURAL HOME*
6 *HEALTH ADD-ON POLICY.—Section 421 of the Medicare*
7 *Prescription Drug, Improvement, and Modernization Act of*
8 *2003 (Public Law 108–173; 117 Stat. 2283), as amended*
9 *by section 5201(b) of the Deficit Reduction Act of 2005*
10 *(Public Law 109–171; 120 Stat. 46), is amended—*

11 (1) *in the section heading, by striking “ONE-*
12 *YEAR” and inserting “TEMPORARY”; and*

13 (2) *in subsection (a)—*

14 (A) *by striking “, and episodes” and insert-*
15 *ing “, episodes”;*

16 (B) *by inserting “and episodes and visits*
17 *ending on or after April 1, 2010, and before*
18 *January 1, 2016,” after “January 1, 2007,”;*
19 *and*

20 (C) *by inserting “(or, in the case of episodes*
21 *and visits ending on or after April 1, 2010, and*
22 *before January 1, 2016, 3 percent)” before the*
23 *period at the end.*

1 (d) *STUDY AND REPORT ON THE DEVELOPMENT OF*
2 *HOME HEALTH PAYMENT REFORMS IN ORDER TO ENSURE*
3 *ACCESS TO CARE AND QUALITY SERVICES.—*

4 (1) *IN GENERAL.—The Secretary of Health and*
5 *Human Services (in this section referred to as the*
6 *“Secretary”)* shall conduct a study to evaluate the
7 *costs and quality of care among efficient home health*
8 *agencies relative to other such agencies in providing*
9 *ongoing access to care and in treating Medicare bene-*
10 *ficiaries with varying severity levels of illness. Such*
11 *study shall include an analysis of the following:*

12 (A) *Methods to revise the home health pro-*
13 *spective payment system under section 1895 of*
14 *the Social Security Act (42 U.S.C. 1395fff) to*
15 *more accurately account for the costs related to*
16 *patient severity of illness or to improving bene-*
17 *ficiary access to care, including—*

18 (i) *payment adjustments for services*
19 *that may be under- or over-valued;*

20 (ii) *necessary changes to reflect the re-*
21 *source use relative to providing home health*
22 *services to low-income Medicare bene-*
23 *ficiaries or Medicare beneficiaries living in*
24 *medically underserved areas;*

1 (iii) ways the outlier payment may be
2 improved to more accurately reflect the cost
3 of treating Medicare beneficiaries with high
4 severity levels of illness;

5 (iv) the role of quality of care incen-
6 tives and penalties in driving provider and
7 patient behavior;

8 (v) improvements in the application of
9 a wage index; and

10 (vi) other areas determined appro-
11 priate by the Secretary.

12 (B) The validity and reliability of responses
13 on the OASIS instrument with particular em-
14 phasis on questions that relate to higher pay-
15 ment under the home health prospective payment
16 system and higher outcome scores under Home
17 Care Compare.

18 (C) Additional research or payment revi-
19 sions under the home health prospective payment
20 system that may be necessary to set the payment
21 rates for home health services based on costs of
22 high-quality and efficient home health agencies
23 or to improve Medicare beneficiary access to
24 care.

1 (D) *A timetable for implementation of any*
2 *appropriate changes based on the analysis of the*
3 *matters described in subparagraphs (A), (B),*
4 *and (C).*

5 (E) *Other areas determined appropriate by*
6 *the Secretary.*

7 (2) *CONSIDERATIONS.—In conducting the study*
8 *under paragraph (1), the Secretary shall consider*
9 *whether certain factors should be used to measure pa-*
10 *tient severity of illness and access to care, such as—*

11 (A) *population density and relative patient*
12 *access to care;*

13 (B) *variations in service costs for providing*
14 *care to individuals who are dually eligible under*
15 *the Medicare and Medicaid programs;*

16 (C) *the presence of severe or chronic dis-*
17 *eases, as evidenced by multiple, discontinuous*
18 *home health episodes;*

19 (D) *poverty status, as evidenced by the re-*
20 *ceipt of Supplemental Security Income under*
21 *title XVI of the Social Security Act;*

22 (E) *the absence of caregivers;*

23 (F) *language barriers;*

24 (G) *atypical transportation costs;*

25 (H) *security costs; and*

1 (I) other factors determined appropriate by
2 the Secretary.

3 (3) *REPORT.*—Not later than March 1, 2011, the
4 Secretary shall submit to Congress a report on the
5 study conducted under paragraph (1), together with
6 recommendations for such legislation and administra-
7 tive action as the Secretary determines appropriate.

8 (4) *CONSULTATIONS.*—In conducting the study
9 under paragraph (1) and preparing the report under
10 paragraph (3), the Secretary shall consult with—

11 (A) stakeholders representing home health
12 agencies;

13 (B) groups representing Medicare bene-
14 ficiaries;

15 (C) the Medicare Payment Advisory Com-
16 mission;

17 (D) the Inspector General of the Depart-
18 ment of Health and Human Services; and

19 (E) the Comptroller General of the United
20 States.

21 **SEC. 3132. HOSPICE REFORM.**

22 (a) *HOSPICE CARE PAYMENT REFORMS.*—

23 (1) *IN GENERAL.*—Section 1814(i) of the Social
24 Security Act (42 U.S.C. 1395f(i)), as amended by sec-
25 tion 3004(c), is amended—

1 (A) by redesignating paragraph (6) as
2 paragraph (7); and

3 (B) by inserting after paragraph (5) the fol-
4 lowing new paragraph:

5 “(6)(A) *The Secretary shall collect additional*
6 *data and information as the Secretary determines ap-*
7 *propriate to revise payments for hospice care under*
8 *this subsection pursuant to subparagraph (D) and for*
9 *other purposes as determined appropriate by the Sec-*
10 *retary. The Secretary shall begin to collect such data*
11 *by not later than January 1, 2011.*

12 “(B) *The additional data and information to be*
13 *collected under subparagraph (A) may include data*
14 *and information on—*

15 “(i) *charges and payments;*

16 “(ii) *the number of days of hospice care*
17 *which are attributable to individuals who are en-*
18 *titled to, or enrolled for, benefits under part A;*
19 *and*

20 “(iii) *with respect to each type of service in-*
21 *cluded in hospice care—*

22 “(I) *the number of days of hospice care*
23 *attributable to the type of service;*

24 “(II) *the cost of the type of service; and*

1 “(III) the amount of payment for the
2 type of service;

3 “(iv) charitable contributions and other rev-
4 enue of the hospice program;

5 “(v) the number of hospice visits;

6 “(vi) the type of practitioner providing the
7 visit; and

8 “(vii) the length of the visit and other basic
9 information with respect to the visit.

10 “(C) The Secretary may collect the additional
11 data and information under subparagraph (A) on
12 cost reports, claims, or other mechanisms as the Sec-
13 retary determines to be appropriate.

14 “(D)(i) Notwithstanding the preceding para-
15 graphs of this subsection, not earlier than October 1,
16 2013, the Secretary shall, by regulation, implement
17 revisions to the methodology for determining the pay-
18 ment rates for routine home care and other services
19 included in hospice care under this part, as the Sec-
20 retary determines to be appropriate. Such revisions
21 may be based on an analysis of data and information
22 collected under subparagraph (A). Such revisions may
23 include adjustments to per diem payments that reflect
24 changes in resource intensity in providing such care

1 *and services during the course of the entire episode of*
2 *hospice care.*

3 “(ii) *Revisions in payment implemented pursu-*
4 *ant to clause (i) shall result in the same estimated*
5 *amount of aggregate expenditures under this title for*
6 *hospice care furnished in the fiscal year in which*
7 *such revisions in payment are implemented as would*
8 *have been made under this title for such care in such*
9 *fiscal year if such revisions had not been imple-*
10 *mented.*

11 “(E) *The Secretary shall consult with hospice*
12 *programs and the Medicare Payment Advisory Com-*
13 *mission regarding the additional data and informa-*
14 *tion to be collected under subparagraph (A) and the*
15 *payment revisions under subparagraph (D).”.*

16 (2) *CONFORMING AMENDMENTS.—Section*
17 *1814(i)(1)(C) of the Social Security Act (42 U.S.C.*
18 *1395f(i)(1)(C)) is amended—*

19 (A) *in clause (ii)—*

20 (i) *in the matter preceding subclause*
21 (I), *by inserting “(before the first fiscal year*
22 *in which the payment revisions described in*
23 *paragraph (6)(D) are implemented)” after*
24 *“subsequent fiscal year”; and*

1 (ii) in subclause (VII), by inserting
2 “(before the first fiscal year in which the
3 payment revisions described in paragraph
4 (6)(D) are implemented), subject to clause
5 (iv),” after “subsequent fiscal year”; and
6 (B) by adding at the end the following new
7 clause:

8 “(iii) With respect to routine home
9 care and other services included in hospice
10 care furnished during fiscal years subse-
11 quent to the first fiscal year in which pay-
12 ment revisions described in paragraph
13 (6)(D) are implemented, the payment rates
14 for such care and services shall be the pay-
15 ment rates in effect under this clause during
16 the preceding fiscal year increased by, sub-
17 ject to clause (iv), the market basket per-
18 centage increase (as defined in section
19 1886(b)(3)(B)(iii)) for the fiscal year.”.

20 (b) *ADOPTION OF MEDPAC HOSPICE PROGRAM ELIGI-*
21 *BILITY RECERTIFICATION RECOMMENDATIONS.*—Section
22 1814(a)(7) of the Social Security Act (42 U.S.C.
23 1395f(a)(7)) is amended—

24 (1) in subparagraph (B), by striking “and” at
25 the end; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(D) on and after January 1, 2011—

4 “(i) a hospice physician or nurse prac-
5 titioner has a face-to-face encounter with
6 the individual to determine continued eligi-
7 bility of the individual for hospice care
8 prior to the 180th-day recertification and
9 each subsequent recertification under sub-
10 paragraph (A)(ii) and attests that such
11 visit took place (in accordance with proce-
12 dures established by the Secretary); and

13 “(ii) in the case of hospice care pro-
14 vided an individual for more than 180 days
15 by a hospice program for which the number
16 of such cases for such program comprises
17 more than a percent (specified by the Sec-
18 retary) of the total number of such cases for
19 all programs under this title, the hospice
20 care provided to such individual is medi-
21 cally reviewed (in accordance with proce-
22 dures established by the Secretary); and”.

1 **SEC. 3133. IMPROVEMENT TO MEDICARE DISPROPOR-**
2 **TIONATE SHARE HOSPITAL (DSH) PAYMENTS.**

3 *Section 1886 of the Social Security Act (42 U.S.C.*
4 *1395ww), as amended by sections 3001, 3008, and 3025,*
5 *is amended—*

6 *(1) in subsection (d)(5)(F)(i), by striking “For”*
7 *and inserting “Subject to subsection (r), for”; and*

8 *(2) by adding at the end the following new sub-*
9 *section:*

10 *“(r) ADJUSTMENTS TO MEDICARE DSH PAYMENTS.—*

11 *“(1) EMPIRICALLY JUSTIFIED DSH PAYMENTS.—*

12 *For fiscal year 2015 and each subsequent fiscal year,*
13 *instead of the amount of disproportionate share hos-*
14 *pital payment that would otherwise be made under*
15 *subsection (d)(5)(F) to a subsection (d) hospital for*
16 *the fiscal year, the Secretary shall pay to the sub-*
17 *section (d) hospital 25 percent of such amount (which*
18 *represents the empirically justified amount for such*
19 *payment, as determined by the Medicare Payment*
20 *Advisory Commission in its March 2007 Report to*
21 *the Congress).*

22 *“(2) ADDITIONAL PAYMENT.—In addition to the*
23 *payment made to a subsection (d) hospital under*
24 *paragraph (1), for fiscal year 2015 and each subse-*
25 *quent fiscal year, the Secretary shall pay to such sub-*

1 *section (d) hospitals an additional amount equal to*
2 *the product of the following factors:*

3 *“(A) FACTOR ONE.—A factor equal to the*
4 *difference between—*

5 *“(i) the aggregate amount of payments*
6 *that would be made to subsection (d) hos-*
7 *pitals under subsection (d)(5)(F) if this sub-*
8 *section did not apply for such fiscal year*
9 *(as estimated by the Secretary); and*

10 *“(ii) the aggregate amount of pay-*
11 *ments that are made to subsection (d) hos-*
12 *pitals under paragraph (1) for such fiscal*
13 *year (as so estimated).*

14 *“(B) FACTOR TWO.—*

15 *“(i) FISCAL YEARS 2015, 2016, AND*
16 *2017.—For each of fiscal years 2015, 2016,*
17 *and 2017, a factor equal to 1 minus the*
18 *percent change (divided by 100) in the per-*
19 *cent of individuals under the age of 65 who*
20 *are uninsured, as determined by comparing*
21 *the percent of such individuals—*

22 *“(I) who are uninsured in 2012,*
23 *the last year before coverage expansion*
24 *under the Patient Protection and Af-*
25 *fordable Care Act (as calculated by the*

1 *Secretary based on the most recent esti-*
2 *mates available from the Director of*
3 *the Congressional Budget Office before*
4 *a vote in either House on such Act*
5 *that, if determined in the affirmative,*
6 *would clear such Act for enrollment);*
7 *and*

8 *“(II) who are uninsured in the*
9 *most recent period for which data is*
10 *available (as so calculated).*

11 *“(ii) 2018 AND SUBSEQUENT YEARS.—*
12 *For fiscal year 2018 and each subsequent*
13 *fiscal year, a factor equal to 1 minus the*
14 *percent change (divided by 100) in the per-*
15 *cent of individuals who are uninsured, as*
16 *determined by comparing the percent of in-*
17 *dividuals—*

18 *“(I) who are uninsured in 2012*
19 *(as estimated by the Secretary, based*
20 *on data from the Census Bureau or*
21 *other sources the Secretary determines*
22 *appropriate, and certified by the Chief*
23 *Actuary of the Centers for Medicare &*
24 *Medicaid Services); and*

1 “(II) who are uninsured in the
2 most recent period for which data is
3 available (as so estimated and cer-
4 tified).

5 “(C) *FACTOR THREE*.—A factor equal to the
6 percent, for each subsection (d) hospital, that
7 represents the quotient of—

8 “(i) the amount of uncompensated care
9 for such hospital for a period selected by the
10 Secretary (as estimated by the Secretary,
11 based on appropriate data (including, in
12 the case where the Secretary determines that
13 alternative data is available which is a bet-
14 ter proxy for the costs of subsection (d) hos-
15 pitals for treating the uninsured, the use of
16 such alternative data)); and

17 “(ii) the aggregate amount of uncom-
18 pensated care for all subsection (d) hospitals
19 that receive a payment under this sub-
20 section for such period (as so estimated,
21 based on such data).

22 “(3) *LIMITATIONS ON REVIEW*.—There shall be
23 no administrative or judicial review under section
24 1869, section 1878, or otherwise of the following:

1 “(A) Any estimate of the Secretary for pur-
2 poses of determining the factors described in
3 paragraph (2).

4 “(B) Any period selected by the Secretary
5 for such purposes.”.

6 **SEC. 3134. MISVALUED CODES UNDER THE PHYSICIAN FEE**
7 **SCHEDULE.**

8 (a) *IN GENERAL.*—Section 1848(c)(2) of the Social Se-
9 curity Act (42 U.S.C. 1395w-4(c)(2)) is amended by add-
10 ing at the end the following new subparagraphs:

11 “(K) *POTENTIALLY MISVALUED CODES.*—

12 “(i) *IN GENERAL.*—The Secretary
13 shall—

14 “(I) periodically identify services
15 as being potentially misvalued using
16 criteria specified in clause (ii); and

17 “(II) review and make appro-
18 priate adjustments to the relative val-
19 ues established under this paragraph
20 for services identified as being poten-
21 tially misvalued under subclause (I).

22 “(ii) *IDENTIFICATION OF POTENTIALLY*
23 *MISVALUED CODES.*—For purposes of iden-
24 tifying potentially misvalued services pur-
25 suant to clause (i)(I), the Secretary shall ex-

1 *amine (as the Secretary determines to be*
2 *appropriate) codes (and families of codes as*
3 *appropriate) for which there has been the*
4 *fastest growth; codes (and families of codes*
5 *as appropriate) that have experienced sub-*
6 *stantial changes in practice expenses; codes*
7 *for new technologies or services within an*
8 *appropriate period (such as 3 years) after*
9 *the relative values are initially established*
10 *for such codes; multiple codes that are fre-*
11 *quently billed in conjunction with fur-*
12 *nishing a single service; codes with low rel-*
13 *ative values, particularly those that are*
14 *often billed multiple times for a single treat-*
15 *ment; codes which have not been subject to*
16 *review since the implementation of the*
17 *RBRVS (the so-called ‘Harvard-valued*
18 *codes’); and such other codes determined to*
19 *be appropriate by the Secretary.*

20 “(iii) *REVIEW AND ADJUSTMENTS.—*

21 *“(I) The Secretary may use exist-*
22 *ing processes to receive recommenda-*
23 *tions on the review and appropriate*
24 *adjustment of potentially misvalued*
25 *services described in clause (i)(II).*

1 “(II) *The Secretary may conduct*
2 *surveys, other data collection activities,*
3 *studies, or other analyses as the Sec-*
4 *retary determines to be appropriate to*
5 *facilitate the review and appropriate*
6 *adjustment described in clause (i)(II).*

7 “(III) *The Secretary may use*
8 *analytic contractors to identify and*
9 *analyze services identified under clause*
10 *(i)(I), conduct surveys or collect data,*
11 *and make recommendations on the re-*
12 *view and appropriate adjustment of*
13 *services described in clause (i)(II).*

14 “(IV) *The Secretary may coordi-*
15 *nate the review and appropriate ad-*
16 *justment described in clause (i)(II)*
17 *with the periodic review described in*
18 *subparagraph (B).*

19 “(V) *As part of the review and*
20 *adjustment described in clause (i)(II),*
21 *including with respect to codes with*
22 *low relative values described in clause*
23 *(ii), the Secretary may make appro-*
24 *priate coding revisions (including*
25 *using existing processes for consider-*

1 *ation of coding changes) which may*
2 *include consolidation of individual*
3 *services into bundled codes for payment*
4 *under the fee schedule under subsection*
5 *(b).*

6 *“(VI) The provisions of subpara-*
7 *graph (B)(ii)(II) shall apply to adjust-*
8 *ments to relative value units made*
9 *pursuant to this subparagraph in the*
10 *same manner as such provisions apply*
11 *to adjustments under subparagraph*
12 *(B)(ii)(II).*

13 *“(L) VALIDATING RELATIVE VALUE*
14 *UNITS.—*

15 *“(i) IN GENERAL.—The Secretary shall*
16 *establish a process to validate relative value*
17 *units under the fee schedule under sub-*
18 *section (b).*

19 *“(ii) COMPONENTS AND ELEMENTS OF*
20 *WORK.—The process described in clause (i)*
21 *may include validation of work elements*
22 *(such as time, mental effort and profes-*
23 *sional judgment, technical skill and phys-*
24 *ical effort, and stress due to risk) involved*
25 *with furnishing a service and may include*

1 *validation of the pre-, post-, and intra-serv-*
2 *ice components of work.*

3 “(iii) *SCOPE OF CODES.*—*The valida-*
4 *tion of work relative value units shall in-*
5 *clude a sampling of codes for services that*
6 *is the same as the codes listed under sub-*
7 *paragraph (K)(ii).*

8 “(iv) *METHODS.*—*The Secretary may*
9 *conduct the validation under this subpara-*
10 *graph using methods described in subclauses*
11 *(I) through (V) of subparagraph (K)(iii) as*
12 *the Secretary determines to be appropriate.*

13 “(v) *ADJUSTMENTS.*—*The Secretary*
14 *shall make appropriate adjustments to the*
15 *work relative value units under the fee*
16 *schedule under subsection (b). The provi-*
17 *sions of subparagraph (B)(ii)(II) shall*
18 *apply to adjustments to relative value units*
19 *made pursuant to this subparagraph in the*
20 *same manner as such provisions apply to*
21 *adjustments under subparagraph*
22 *(B)(ii)(II).”.*

23 (b) *IMPLEMENTATION.*—

24 (1) *ADMINISTRATION.*—

1 (A) Chapter 35 of title 44, United States
2 Code and the provisions of the Federal Advisory
3 Committee Act (5 U.S.C. App.) shall not apply
4 to this section or the amendment made by this
5 section.

6 (B) Notwithstanding any other provision of
7 law, the Secretary may implement subpara-
8 graphs (K) and (L) of 1848(c)(2) of the Social
9 Security Act, as added by subsection (a), by pro-
10 gram instruction or otherwise.

11 (C) Section 4505(d) of the Balanced Budget
12 Act of 1997 is repealed.

13 (D) Except for provisions related to con-
14 fidentiality of information, the provisions of the
15 Federal Acquisition Regulation shall not apply
16 to this section or the amendment made by this
17 section.

18 (2) *FOCUSING CMS RESOURCES ON POTENTIALLY*
19 *OVERVALUED CODES.*—Section 1868(a) of the Social
20 Security Act (42 U.S.C. 1395ee(a)) is repealed.

21 **SEC. 3135. MODIFICATION OF EQUIPMENT UTILIZATION**
22 **FACTOR FOR ADVANCED IMAGING SERVICES.**

23 (a) *ADJUSTMENT IN PRACTICE EXPENSE TO REFLECT*
24 *HIGHER PRESUMED UTILIZATION.*—Section 1848 of the
25 Social Security Act (42 U.S.C. 1395w-4) is amended—

1 (1) *in subsection (b)(4)—*

2 (A) *in subparagraph (B), by striking “sub-*
3 *paragraph (A)” and inserting “this paragraph”;*
4 *and*

5 (B) *by adding at the end the following new*
6 *subparagraph:*

7 “(C) *ADJUSTMENT IN PRACTICE EXPENSE*
8 *TO REFLECT HIGHER PRESUMED UTILIZATION.—*
9 *Consistent with the methodology for computing*
10 *the number of practice expense relative value*
11 *units under subsection (c)(2)(C)(ii) with respect*
12 *to advanced diagnostic imaging services (as de-*
13 *finied in section 1834(e)(1)(B)) furnished on or*
14 *after January 1, 2010, the Secretary shall adjust*
15 *such number of units so it reflects—*

16 “(i) *in the case of services furnished on*
17 *or after January 1, 2010, and before Janu-*
18 *ary 1, 2013, a 65 percent (rather than 50*
19 *percent) presumed rate of utilization of im-*
20 *aging equipment;*

21 “(ii) *in the case of services furnished*
22 *on or after January 1, 2013, and before*
23 *January 1, 2014, a 70 percent (rather than*
24 *50 percent) presumed rate of utilization of*
25 *imaging equipment; and*

1 “(iii) in the case of services furnished
2 on or after January 1, 2014, a 75 percent
3 (rather than 50 percent) presumed rate of
4 utilization of imaging equipment.”; and

5 (2) in subsection (c)(2)(B)(v), by adding at the
6 end the following new subclauses:

7 “(III) CHANGE IN PRESUMED UTI-
8 LIZATION LEVEL OF CERTAIN AD-
9 VANCED DIAGNOSTIC IMAGING SERV-
10 ICES FOR 2010 THROUGH 2012.—Effec-
11 tive for fee schedules established begin-
12 ning with 2010 and ending with 2012,
13 reduced expenditures attributable to the
14 presumed rate of utilization of imaging
15 equipment of 65 percent under sub-
16 section (b)(4)(C)(i) instead of a pre-
17 sumed rate of utilization of such equip-
18 ment of 50 percent.

19 “(IV) CHANGE IN PRESUMED UTI-
20 LIZATION LEVEL OF CERTAIN AD-
21 VANCED DIAGNOSTIC IMAGING SERV-
22 ICES FOR 2013.—Effective for fee sched-
23 ules established for 2013, reduced ex-
24 penditures attributable to the presumed
25 rate of utilization of imaging equip-

1 *ment of 70 percent under subsection*
2 *(b)(4)(C)(ii) instead of a presumed*
3 *rate of utilization of such equipment of*
4 *50 percent.*

5 “(V) *CHANGE IN PRESUMED UTI-*
6 *LIZATION LEVEL OF CERTAIN AD-*
7 *VANCED DIAGNOSTIC IMAGING SERV-*
8 *ICES FOR 2014 AND SUBSEQUENT*
9 *YEARS.—Effective for fee schedules es-*
10 *tablished beginning with 2014, reduced*
11 *expenditures attributable to the pre-*
12 *sumed rate of utilization of imaging*
13 *equipment of 75 percent under sub-*
14 *section (b)(4)(C)(iii) instead of a pre-*
15 *sumed rate of utilization of such equip-*
16 *ment of 50 percent.”.*

17 (b) *ADJUSTMENT IN TECHNICAL COMPONENT “DIS-*
18 *COUNT” ON SINGLE-SESSION IMAGING TO CONSECUTIVE*
19 *BODY PARTS.—Section 1848 of the Social Security Act (42*
20 *U.S.C. 1395w-4), as amended by subsection (a), is amend-*
21 *ed—*

22 (1) *in subsection (b)(4), by adding at the end the*
23 *following new subparagraph:*

24 “(D) *ADJUSTMENT IN TECHNICAL COMPO-*
25 *NENT DISCOUNT ON SINGLE-SESSION IMAGING IN-*

1 VOLVING CONSECUTIVE BODY PARTS.—*For serv-*
2 *ices furnished on or after July 1, 2010, the Sec-*
3 *retary shall increase the reduction in payments*
4 *attributable to the multiple procedure payment*
5 *reduction applicable to the technical component*
6 *for imaging under the final rule published by the*
7 *Secretary in the Federal Register on November*
8 *21, 2005 (part 405 of title 42, Code of Federal*
9 *Regulations) from 25 percent to 50 percent.”;*
10 *and*

11 *(2) in subsection (c)(2)(B)(v), by adding at the*
12 *end the following new subclause:*

13 “(VI) *ADDITIONAL REDUCED PAY-*
14 *MENT FOR MULTIPLE IMAGING PROCE-*
15 *DURES.—Effective for fee schedules es-*
16 *tablished beginning with 2010 (but not*
17 *applied for services furnished prior to*
18 *July 1, 2010), reduced expenditures at-*
19 *tributable to the increase in the mul-*
20 *tiple procedure payment reduction*
21 *from 25 to 50 percent (as described in*
22 *subsection (b)(4)(D)).”.*

23 *(c) ANALYSIS BY THE CHIEF ACTUARY OF THE CEN-*
24 *TERS FOR MEDICARE & MEDICAID SERVICES.—Not later*
25 *than January 1, 2013, the Chief Actuary of the Centers for*

1 *Medicare & Medicaid Services shall make publicly available*
2 *an analysis of whether, for the period of 2010 through 2019,*
3 *the cumulative expenditure reductions under title XVIII of*
4 *the Social Security Act that are attributable to the adjust-*
5 *ments under the amendments made by this section are pro-*
6 *jected to exceed \$3,000,000,000.*

7 **SEC. 3136. REVISION OF PAYMENT FOR POWER-DRIVEN**
8 **WHEELCHAIRS.**

9 (a) *IN GENERAL.*—Section 1834(a)(7)(A) of the Social
10 Security Act (42 U.S.C. 1395m(a)(7)(A)) is amended—

11 (1) *in clause (i)*—

12 (A) *in subclause (II), by inserting “sub-*
13 *clause (III) and” after “Subject to”; and*

14 (B) *by adding at the end the following new*
15 *subclause:*

16 “(III) *SPECIAL RULE FOR POWER-*
17 *DRIVEN WHEELCHAIRS.*—*For purposes*
18 *of payment for power-driven wheel-*
19 *chairs, subclause (II) shall be applied*
20 *by substituting ‘15 percent’ and ‘6 per-*
21 *cent’ for ‘10 percent’ and ‘7.5 percent’,*
22 *respectively.”; and*

23 (2) *in clause (iii)*—

24 (A) *in the heading, by inserting “COMPLEX,*
25 *REHABILITATIVE” before “POWER-DRIVEN”; and*

1 (B) by inserting “complex, rehabilitative”
2 before “power-driven”.

3 (b) TECHNICAL AMENDMENT.—Section
4 1834(a)(7)(C)(ii)(II) of the Social Security Act (42 U.S.C.
5 1395m(a)(7)(C)(ii)(II)) is amended by striking “(A)(ii)
6 or”.

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Subject to paragraph (2), the
9 amendments made by subsection (a) shall take effect
10 on January 1, 2011, and shall apply to power-driven
11 wheelchairs furnished on or after such date.

12 (2) APPLICATION TO COMPETITIVE BIDDING.—
13 The amendments made by subsection (a) shall not
14 apply to payment made for items and services fur-
15 nished pursuant to contracts entered into under sec-
16 tion 1847 of the Social Security Act (42 U.S.C.
17 1395w-3) prior to January 1, 2011, pursuant to the
18 implementation of subsection (a)(1)(B)(i)(I) of such
19 section 1847.

20 **SEC. 3137. HOSPITAL WAGE INDEX IMPROVEMENT.**

21 (a) EXTENSION OF SECTION 508 HOSPITAL RECLASSI-
22 FICATIONS.—

23 (1) IN GENERAL.—Subsection (a) of section 106
24 of division B of the Tax Relief and Health Care Act
25 of 2006 (42 U.S.C. 1395 note), as amended by section

1 *117 of the Medicare, Medicaid, and SCHIP Extension*
2 *Act of 2007 (Public Law 110–173) and section 124*
3 *of the Medicare Improvements for Patients and Pro-*
4 *viders Act of 2008 (Public Law 110–275), is amended*
5 *by striking “September 30, 2009” and inserting*
6 *“September 30, 2010”.*

7 (2) *USE OF PARTICULAR WAGE INDEX IN FISCAL*
8 *YEAR 2010.—For purposes of implementation of the*
9 *amendment made by this subsection during fiscal*
10 *year 2010, the Secretary shall use the hospital wage*
11 *index that was promulgated by the Secretary in the*
12 *Federal Register on August 27, 2009 (74 Fed. Reg.*
13 *43754), and any subsequent corrections.*

14 (b) *PLAN FOR REFORMING THE MEDICARE HOSPITAL*
15 *WAGE INDEX SYSTEM.—*

16 (1) *IN GENERAL.—Not later than December 31,*
17 *2011, the Secretary of Health and Human Services*
18 *(in this section referred to as the “Secretary”) shall*
19 *submit to Congress a report that includes a plan to*
20 *reform the hospital wage index system under section*
21 *1886 of the Social Security Act.*

22 (2) *DETAILS.—In developing the plan under*
23 *paragraph (1), the Secretary shall take into account*
24 *the goals for reforming such system set forth in the*
25 *Medicare Payment Advisory Commission June 2007*

1 *report entitled “Report to Congress: Promoting Great-*
2 *er Efficiency in Medicare”, including establishing a*
3 *new hospital compensation index system that—*

4 *(A) uses Bureau of Labor Statistics data, or*
5 *other data or methodologies, to calculate relative*
6 *wages for each geographic area involved;*

7 *(B) minimizes wage index adjustments be-*
8 *tween and within metropolitan statistical areas*
9 *and statewide rural areas;*

10 *(C) includes methods to minimize the vola-*
11 *tility of wage index adjustments that result from*
12 *implementation of policy, while maintaining*
13 *budget neutrality in applying such adjustments;*

14 *(D) takes into account the effect that imple-*
15 *mentation of the system would have on health*
16 *care providers and on each region of the country;*

17 *(E) addresses issues related to occupational*
18 *mix, such as staffing practices and ratios, and*
19 *any evidence on the effect on quality of care or*
20 *patient safety as a result of the implementation*
21 *of the system; and*

22 *(F) provides for a transition.*

23 *(3) CONSULTATION.—In developing the plan*
24 *under paragraph (1), the Secretary shall consult with*
25 *relevant affected parties.*

1 (c) *USE OF PARTICULAR CRITERIA FOR DETERMINING*
2 *RECLASSIFICATIONS.*—*Notwithstanding any other provi-*
3 *sion of law, in making decisions on applications for reclas-*
4 *sification of a subsection (d) hospital (as defined in para-*
5 *graph (1)(B) of section 1886(d) of the Social Security Act*
6 *(42 U.S.C. 1395ww(d)) for the purposes described in para-*
7 *graph (10)(D)(v) of such section for fiscal year 2011 and*
8 *each subsequent fiscal year (until the first fiscal year begin-*
9 *ning on or after the date that is 1 year after the Secretary*
10 *of Health and Human Services submits the report to Con-*
11 *gress under subsection (b)), the Geographic Classification*
12 *Review Board established under paragraph (10) of such sec-*
13 *tion shall use the average hourly wage comparison criteria*
14 *used in making such decisions as of September 30, 2008.*
15 *The preceding sentence shall be effected in a budget neutral*
16 *manner.*

17 **SEC. 3138. TREATMENT OF CERTAIN CANCER HOSPITALS.**

18 Section 1833(t) of the Social Security Act (42 U.S.C.
19 1395l(t)) is amended by adding at the end the following
20 new paragraph:

21 “(18) *AUTHORIZATION OF ADJUSTMENT FOR*
22 *CANCER HOSPITALS.*—

23 “(A) *STUDY.*—*The Secretary shall conduct*
24 *a study to determine if, under the system under*
25 *this subsection, costs incurred by hospitals de-*

1 scribed in section 1886(d)(1)(B)(v) with respect
2 to ambulatory payment classification groups ex-
3 ceed those costs incurred by other hospitals fur-
4 nishing services under this subsection (as deter-
5 mined appropriate by the Secretary). In con-
6 ducting the study under this subparagraph, the
7 Secretary shall take into consideration the cost of
8 drugs and biologicals incurred by such hospitals.

9 “(B) *AUTHORIZATION OF ADJUSTMENT.*—
10 Insofar as the Secretary determines under sub-
11 paragraph (A) that costs incurred by hospitals
12 described in section 1886(d)(1)(B)(v) exceed those
13 costs incurred by other hospitals furnishing serv-
14 ices under this subsection, the Secretary shall
15 provide for an appropriate adjustment under
16 paragraph (2)(E) to reflect those higher costs ef-
17 fective for services furnished on or after January
18 1, 2011.”.

19 **SEC. 3139. PAYMENT FOR BIOSIMILAR BIOLOGICAL PROD-**
20 **UCTS.**

21 (a) *IN GENERAL.*—Section 1847A of the Social Secu-
22 rity Act (42 U.S.C. 1395w-3a) is amended—

23 (1) in subsection (b)—

24 (A) in paragraph (1)—

1 (i) in subparagraph (A), by striking
2 “or” at the end;

3 (ii) in subparagraph (B), by striking
4 the period at the end and inserting “; or”;
5 and

6 (iii) by adding at the end the following
7 new subparagraph:

8 “(C) in the case of a biosimilar biological
9 product (as defined in subsection (c)(6)(H)), the
10 amount determined under paragraph (8).”; and

11 (B) by adding at the end the following new
12 paragraph:

13 “(8) *BIOSIMILAR BIOLOGICAL PRODUCT.*—*The*
14 *amount specified in this paragraph for a biosimilar*
15 *biological product described in paragraph (1)(C) is*
16 *the sum of—*

17 “(A) *the average sales price as determined*
18 *using the methodology described under para-*
19 *graph (6) applied to a biosimilar biological*
20 *product for all National Drug Codes assigned to*
21 *such product in the same manner as such para-*
22 *graph is applied to drugs described in such*
23 *paragraph; and*

24 “(B) *6 percent of the amount determined*
25 *under paragraph (4) for the reference biological*

1 *product (as defined in subsection (c)(6)(I)).”;*

2 *and*

3 *(2) in subsection (c)(6), by adding at the end the*
4 *following new subparagraph:*

5 “(H) *BIOSIMILAR BIOLOGICAL PRODUCT.*—

6 *The term ‘biosimilar biological product’ means a*
7 *biological product approved under an abbrevi-*
8 *ated application for a license of a biological*
9 *product that relies in part on data or informa-*
10 *tion in an application for another biological*
11 *product licensed under section 351 of the Public*
12 *Health Service Act.*

13 “(I) *REFERENCE BIOLOGICAL PRODUCT.*—

14 *The term ‘reference biological product’ means the*
15 *biological product licensed under such section*
16 *351 that is referred to in the application de-*
17 *scribed in subparagraph (H) of the biosimilar*
18 *biological product.”.*

19 *(b) EFFECTIVE DATE.*—*The amendments made by sub-*
20 *section (a) shall apply to payments for biosimilar biological*
21 *products beginning with the first day of the second calendar*
22 *quarter after enactment of legislation providing for a bio-*
23 *similar pathway (as determined by the Secretary).*

1 **SEC. 3140. MEDICARE HOSPICE CONCURRENT CARE DEM-**
2 **ONSTRATION PROGRAM.**

3 (a) *ESTABLISHMENT.*—

4 (1) *IN GENERAL.*—*The Secretary of Health and*
5 *Human Services (in this section referred to as the*
6 *“Secretary”)* shall establish a Medicare Hospice Con-
7 *current Care demonstration program at participating*
8 *hospice programs under which Medicare beneficiaries*
9 *are furnished, during the same period, hospice care*
10 *and any other items or services covered under title*
11 *XVIII of the Social Security Act (42 U.S.C. 1395 et*
12 *seq.) from funds otherwise paid under such title to*
13 *such hospice programs.*

14 (2) *DURATION.*—*The demonstration program*
15 *under this section shall be conducted for a 3-year pe-*
16 *riod.*

17 (3) *SITES.*—*The Secretary shall select not more*
18 *than 15 hospice programs at which the demonstration*
19 *program under this section shall be conducted. Such*
20 *hospice programs shall be located in urban and rural*
21 *areas.*

22 (b) *INDEPENDENT EVALUATION AND REPORTS.*—

23 (1) *INDEPENDENT EVALUATION.*—*The Secretary*
24 *shall provide for the conduct of an independent eval-*
25 *uation of the demonstration program under this sec-*
26 *tion. Such independent evaluation shall determine*

1 *whether the demonstration program has improved pa-*
2 *tient care, quality of life, and cost-effectiveness for*
3 *Medicare beneficiaries participating in the dem-*
4 *onstration program.*

5 (2) *REPORTS.*—*The Secretary shall submit to*
6 *Congress a report containing the results of the evalua-*
7 *tion conducted under paragraph (1), together with*
8 *such recommendations as the Secretary determines*
9 *appropriate.*

10 (c) *BUDGET NEUTRALITY.*—*With respect to the 3-year*
11 *period of the demonstration program under this section, the*
12 *Secretary shall ensure that the aggregate expenditures*
13 *under title XVIII for such period shall not exceed the aggre-*
14 *gate expenditures that would have been expended under*
15 *such title if the demonstration program under this section*
16 *had not been implemented.*

17 **SEC. 3141. APPLICATION OF BUDGET NEUTRALITY ON A NA-**
18 **TIONAL BASIS IN THE CALCULATION OF THE**
19 **MEDICARE HOSPITAL WAGE INDEX FLOOR.**

20 *In the case of discharges occurring on or after October*
21 *1, 2010, for purposes of applying section 4410 of the Bal-*
22 *anced Budget Act of 1997 (42 U.S.C. 1395ww note) and*
23 *paragraph (h)(4) of section 412.64 of title 42, Code of Fed-*
24 *eral Regulations, the Secretary of Health and Human Serv-*
25 *ices shall administer subsection (b) of such section 4410 and*

1 *paragraph (e) of such section 412.64 in the same manner*
2 *as the Secretary administered such subsection (b) and para-*
3 *graph (e) for discharges occurring during fiscal year 2008*
4 *(through a uniform, national adjustment to the area wage*
5 *index).*

6 **SEC. 3142. HHS STUDY ON URBAN MEDICARE-DEPENDENT**
7 **HOSPITALS.**

8 *(a) STUDY.—*

9 *(1) IN GENERAL.—The Secretary of Health and*
10 *Human Services (in this section referred to as the*
11 *“Secretary”) shall conduct a study on the need for an*
12 *additional payment for urban Medicare-dependent*
13 *hospitals for inpatient hospital services under section*
14 *1886 of the Social Security Act (42 U.S.C. 1395ww).*
15 *Such study shall include an analysis of—*

16 *(A) the Medicare inpatient margins of*
17 *urban Medicare-dependent hospitals, as com-*
18 *pared to other hospitals which receive 1 or more*
19 *additional payments or adjustments under such*
20 *section (including those payments or adjustments*
21 *described in paragraph (2)(A)); and*

22 *(B) whether payments to medicare-depend-*
23 *ent, small rural hospitals under subsection*
24 *(d)(5)(G) of such section should be applied to*
25 *urban Medicare-dependent hospitals.*

1 (2) *URBAN MEDICARE-DEPENDENT HOSPITAL*
2 *DEFINED.*—*For purposes of this section, the term*
3 *“urban Medicare-dependent hospital” means a sub-*
4 *section (d) hospital (as defined in subsection*
5 *(d)(1)(B) of such section) that—*

6 (A) *does not receive any additional pay-*
7 *ment or adjustment under such section, such as*
8 *payments for indirect medical education costs*
9 *under subsection (d)(5)(B) of such section, dis-*
10 *proportionate share payments under subsection*
11 *(d)(5)(A) of such section, payments to a rural re-*
12 *ferral center under subsection (d)(5)(C) of such*
13 *section, payments to a critical access hospital*
14 *under section 1814(l) of such Act (42 U.S.C.*
15 *1395f(l)), payments to a sole community hospital*
16 *under subsection (d)(5)(D) of such section 1886,*
17 *or payments to a medicare-dependent, small*
18 *rural hospital under subsection (d)(5)(G) of such*
19 *section 1886; and*

20 (B) *for which more than 60 percent of its*
21 *inpatient days or discharges during 2 of the 3*
22 *most recently audited cost reporting periods for*
23 *which the Secretary has a settled cost report were*
24 *attributable to inpatients entitled to benefits*
25 *under part A of title XVIII of such Act.*

1 **(b) REPORT.**—Not later than 9 months after the date
2 of enactment of this Act, the Secretary shall submit to Con-
3 gress a report containing the results of the study conducted
4 under subsection (a), together with recommendations for
5 such legislation and administrative action as the Secretary
6 determines appropriate.

7 **SEC. 3143. PROTECTING HOME HEALTH BENEFITS.**

8 Nothing in the provisions of, or amendments made by,
9 this Act shall result in the reduction of guaranteed home
10 health benefits under title XVIII of the Social Security Act.

11 **Subtitle C—Provisions Relating to**
12 **Part C**

13 **SEC. 3201. MEDICARE ADVANTAGE PAYMENT.**

14 **(a) MA BENCHMARK BASED ON PLAN’S COMPETITIVE**
15 **BIDS.**—

16 **(1) IN GENERAL.**—Section 1853(j) of the Social
17 Security Act (42 U.S.C. 1395w–23(j)) is amended—

18 **(A)** by striking “AMOUNTS.—For purposes”
19 and inserting “AMOUNTS.—

20 “(1) IN GENERAL.—For purposes”;

21 **(B)** by redesignating paragraphs (1) and
22 (2) as subparagraphs (A) and (B), respectively,
23 and indenting the subparagraphs appropriately;

24 **(C)** in subparagraph (A), as redesignated
25 by subparagraph (B)—

1 *(i) by redesignating subparagraphs (A)*
2 *and (B) as clauses (i) and (ii), respectively,*
3 *and indenting the clauses appropriately;*
4 *and*

5 *(ii) in clause (i), as redesignated by*
6 *clause (i), by striking “an amount equal to”*
7 *and all that follows through the end and in-*
8 *serting “an amount equal to—*

9 *“(I) for years before 2007, $\frac{1}{12}$ of*
10 *the annual MA capitation rate under*
11 *section 1853(c)(1) for the area for the*
12 *year, adjusted as appropriate for the*
13 *purpose of risk adjustment;*

14 *“(II) for 2007 through 2011, $\frac{1}{12}$*
15 *of the applicable amount determined*
16 *under subsection (k)(1) for the area for*
17 *the year;*

18 *“(III) for 2012, the sum of—*

19 *“(aa) $\frac{2}{3}$ of the quotient of—*

20 *“(AA) the applicable*
21 *amount determined under*
22 *subsection (k)(1) for the area*
23 *for the year; and*

24 *“(BB) 12; and*

1 “(bb) $\frac{1}{3}$ of the MA competi-
2 tive benchmark amount (deter-
3 mined under paragraph (2)) for
4 the area for the month;

5 “(IV) for 2013, the sum of—

6 “(aa) $\frac{1}{3}$ of the quotient of—
7 “(AA) the applicable
8 amount determined under
9 subsection (k)(1) for the area
10 for the year; and

11 “(BB) 12; and

12 “(bb) $\frac{2}{3}$ of the MA competi-
13 tive benchmark amount (as so de-
14 termined) for the area for the
15 month;

16 “(V) for 2014, the MA competitive
17 benchmark amount for the area for a
18 month in 2013 (as so determined), in-
19 creased by the national per capita MA
20 growth percentage, described in sub-
21 section (c)(6) for 2014, but not taking
22 into account any adjustment under
23 subparagraph (C) of such subsection
24 for a year before 2004; and

1 “(VI) for 2015 and each subse-
2 quent year, the MA competitive bench-
3 mark amount (as so determined) for
4 the area for the month; or”;

5 (iii) in clause (ii), as redesignated by
6 clause (i), by striking “subparagraph (A)”
7 and inserting “clause (i)”;

8 (D) by adding at the end the following new
9 paragraphs:

10 “(2) COMPUTATION OF MA COMPETITIVE BENCH-
11 MARK AMOUNT.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B) and paragraph (3), for months in
14 each year (beginning with 2012) for each MA
15 payment area the Secretary shall compute an
16 MA competitive benchmark amount equal to the
17 weighted average of the unadjusted MA statutory
18 non-drug monthly bid amount (as defined in sec-
19 tion 1854(b)(2)(E)) for each MA plan in the
20 area, with the weight for each plan being equal
21 to the average number of beneficiaries enrolled
22 under such plan in the reference month (as de-
23 fined in section 1858(f)(4), except that, in apply-
24 ing such definition for purposes of this para-
25 graph, ‘to compute the MA competitive bench-

1 *mark amount under section 1853(j)(2)’ shall be*
2 *substituted for ‘to compute the percentage speci-*
3 *fied in subparagraph (A) and other relevant per-*
4 *centages under this part’).*

5 “(B) *WEIGHTING RULES.—*

6 “(i) *SINGLE PLAN RULE.—In the case*
7 *of an MA payment area in which only a*
8 *single MA plan is being offered, the weight*
9 *under subparagraph (A) shall be equal to 1.*

10 “(ii) *USE OF SIMPLE AVERAGE AMONG*
11 *MULTIPLE PLANS IF NO PLANS OFFERED IN*
12 *PREVIOUS YEAR.—In the case of an MA*
13 *payment area in which no MA plan was of-*
14 *fered in the previous year and more than 1*
15 *MA plan is offered in the current year, the*
16 *Secretary shall use a simple average of the*
17 *unadjusted MA statutory non-drug monthly*
18 *bid amount (as so defined) for purposes of*
19 *computing the MA competitive benchmark*
20 *amount under subparagraph (A).*

21 “(3) *CAP ON MA COMPETITIVE BENCHMARK*
22 *AMOUNT.—In no case shall the MA competitive bench-*
23 *mark amount for an area for a month in a year be*
24 *greater than the applicable amount that would (but*
25 *for the application of this subsection) be determined*

1 *under subsection (k)(1) for the area for the month in*
2 *the year.”; and*

3 *(E) in subsection (k)(2)(B)(ii)(III), by*
4 *striking “(j)(1)(A)” and inserting “(j)(1)(A)(i)”.*

5 (2) *CONFORMING AMENDMENTS.—*

6 *(A) Section 1853(k)(2) of the Social Secu-*
7 *rity Act (42 U.S.C. 1395w-23(k)(2)) is amend-*
8 *ed—*

9 *(i) in subparagraph (A), by striking*
10 *“through 2010” and inserting “and subse-*
11 *quent years”; and*

12 *(ii) in subparagraph (C)—*

13 *(I) in clause (iii), by striking*
14 *“and” at the end;*

15 *(II) in clause (iv), by striking the*
16 *period at the end and inserting “;*
17 *and”; and*

18 *(III) by adding at the end the fol-*
19 *lowing new clause:*

20 *“(v) for 2011 and subsequent years,*
21 *0.00.”.*

22 *(B) Section 1854(b) of the Social Security*
23 *Act (42 U.S.C. 1395w-24(b)) is amended—*

1 (i) in paragraph (3)(B)(i), by striking
2 “1853(j)(1)” and inserting “1853(j)(1)(A)”;
3 and

4 (ii) in paragraph (4)(B)(i), by striking
5 “1853(j)(2)” and inserting “1853(j)(1)(B)”.

6 (C) Section 1858(f) of the Social Security
7 Act (42 U.S.C. 1395w–27(f)) is amended—

8 (i) in paragraph (1), by striking
9 “1853(j)(2)” and inserting “1853(j)(1)(B)”;
10 and

11 (ii) in paragraph (3)(A), by striking
12 “1853(j)(1)(A)” and inserting
13 “1853(j)(1)(A)(i)”.

14 (D) Section 1860C–1(d)(1)(A) of the Social
15 Security Act (42 U.S.C. 1395w–29(d)(1)(A)) is
16 amended by striking “1853(j)(1)(A)” and insert-
17 ing “1853(j)(1)(A)(i)”.

18 (b) *REDUCTION OF NATIONAL PER CAPITA GROWTH*
19 *PERCENTAGE FOR 2011.*—Section 1853(c)(6) of the Social
20 Security Act (42 U.S.C. 1395w–23(c)(6)) is amended—

21 (1) in clause (v), by striking “and” at the end;

22 (2) in clause (vi)—

23 (A) by striking “for a year after 2002” and
24 inserting “for 2003 through 2010”; and

1 (B) by striking the period at the end and
2 inserting a comma; and

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

5 “(vii) for 2011, 3 percentage points;

6 and

7 “(viii) for a year after 2011, 0 percent-
8 age points.”.

9 (c) *ENHANCEMENT OF BENEFICIARY REBATES.*—*Sec-*
10 *tion 1854(b)(1)(C)(i) of the Social Security Act (42 U.S.C.*
11 *1395w-24(b)(1)(C)(i)) is amended by inserting “(or 100*
12 *percent in the case of plan years beginning on or after Jan-*
13 *uary 1, 2014)” after “75 percent”.*

14 (d) *BIDDING RULES.*—

15 (1) *REQUIREMENTS FOR INFORMATION SUB-*
16 *MITTED.*—*Section 1854(a)(6)(A) of the Social Secu-*
17 *rity Act (42 U.S.C. 1395w-24(a)(6)(A)) is amended,*
18 *in the flush matter following clause (v), by adding at*
19 *the end the following sentence: “Information to be*
20 *submitted under this paragraph shall be certified by*
21 *a qualified member of the American Academy of Ac-*
22 *tuaries and shall meet actuarial guidelines and rules*
23 *established by the Secretary under subparagraph*
24 *(B)(v).”.*

1 (2) *ESTABLISHMENT OF ACTUARIAL GUIDE-*
2 *LINES.—Section 1854(a)(6)(B) of the Social Security*
3 *Act (42 U.S.C. 1395w–24(a)(6)(B)) is amended—*

4 (A) *in clause (i), by striking “(iii) and*
5 *(iv)” and inserting “(iii), (iv), and (v)”;* and

6 (B) *by adding at the end the following new*
7 *clause:*

8 “(v) *ESTABLISHMENT OF ACTUARIAL*
9 *GUIDELINES.—*

10 “(I) *IN GENERAL.—In order to es-*
11 *tablish fair MA competitive bench-*
12 *marks under section 1853(j)(1)(A)(i),*
13 *the Secretary, acting through the Chief*
14 *Actuary of the Centers for Medicare &*
15 *Medicaid Services (in this clause re-*
16 *ferred to as the ‘Chief Actuary’), shall*
17 *establish—*

18 “(aa) *actuarial guidelines for*
19 *the submission of bid information*
20 *under this paragraph; and*

21 “(bb) *bidding rules that are*
22 *appropriate to ensure accurate*
23 *bids and fair competition among*
24 *MA plans.*

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“(II) DENIAL OF BID AMOUNTS.—

The Secretary shall deny monthly bid amounts submitted under subparagraph (A) that do not meet the actuarial guidelines and rules established under subclause (I).

“(III) REFUSAL TO ACCEPT CERTAIN BIDS DUE TO MISREPRESENTATIONS AND FAILURES TO ADEQUATELY MEET REQUIREMENTS.—

In the case where the Secretary determines that information submitted by an MA organization under subparagraph (A) contains consistent misrepresentations and failures to adequately meet requirements of the organization, the Secretary may refuse to accept any additional such bid amounts from the organization for the plan year and the Chief Actuary shall, if the Chief Actuary determines that the actuaries of the organization were complicit in those misrepresentations and failures, report those actuaries to the Actuarial Board for Counseling and Discipline.”

1 (3) *EFFECTIVE DATE.*—*The amendments made*
2 *by this subsection shall apply to bid amounts sub-*
3 *mitted on or after January 1, 2012.*

4 (e) *MA LOCAL PLAN SERVICE AREAS.*—

5 (1) *IN GENERAL.*—*Section 1853(d) of the Social*
6 *Security Act (42 U.S.C. 1395w–23(d)) is amended—*

7 (A) *in the subsection heading, by striking*
8 *“MA REGION” and inserting “MA REGION; MA*
9 *LOCAL PLAN SERVICE AREA”;*

10 (B) *in paragraph (1), by striking subpara-*
11 *graph (A) and inserting the following:*

12 “(A) *with respect to an MA local plan—*

13 “(i) *for years before 2012, an MA local*
14 *area (as defined in paragraph (2)); and*

15 “(ii) *for 2012 and succeeding years, a*
16 *service area that is an entire urban or rural*
17 *area, as applicable (as described in para-*
18 *graph (5)); and”;* and

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

21 “(5) *MA LOCAL PLAN SERVICE AREA.*—*For 2012*
22 *and succeeding years, the service area for an MA local*
23 *plan shall be an entire urban or rural area in each*
24 *State as follows:*

25 “(A) *URBAN AREAS.*—

1 “(i) *IN GENERAL.*—Subject to clause
2 (ii) and subparagraphs (C) and (D), the
3 service area for an MA local plan in an
4 urban area shall be the Core Based Statis-
5 tical Area (in this paragraph referred to as
6 a ‘CBSA’) or, if applicable, a conceptually
7 similar alternative classification, as defined
8 by the Director of the Office of Management
9 and Budget.

10 “(ii) *CBSA COVERING MORE THAN ONE*
11 *STATE.*—In the case of a CBSA (or alter-
12 native classification) that covers more than
13 one State, the Secretary shall divide the
14 CBSA (or alternative classification) into
15 separate service areas with respect to each
16 State covered by the CBSA (or alternative
17 classification).

18 “(B) *RURAL AREAS.*—Subject to subpara-
19 graphs (C) and (D), the service area for an MA
20 local plan in a rural area shall be a county that
21 does not qualify for inclusion in a CBSA (or al-
22 ternative classification), as defined by the Direc-
23 tor of the Office of Management and Budget.

24 “(C) *REFINEMENTS TO SERVICE AREAS.*—
25 For 2015 and succeeding years, in order to re-

1 *flect actual patterns of health care service utili-*
2 *zation, the Secretary may adjust the boundaries*
3 *of service areas for MA local plans in urban*
4 *areas and rural areas under subparagraphs (A)*
5 *and (B), respectively, but may only do so based*
6 *on recent analyses of actual patterns of care.*

7 “(D) *ADDITIONAL AUTHORITY TO MAKE*
8 *LIMITED EXCEPTIONS TO SERVICE AREA RE-*
9 *QUIREMENTS FOR MA LOCAL PLANS.—The Sec-*
10 *retary may, in addition to any adjustments*
11 *under subparagraph (C), make limited excep-*
12 *tions to service area requirements otherwise ap-*
13 *plicable under this part for MA local plans that*
14 *have in effect (as of the date of enactment of the*
15 *Patient Protection and Affordable Care Act)—*

16 “(i) *agreements with another MA orga-*
17 *nization or MA plan that preclude the offer-*
18 *ing of benefits throughout an entire service*
19 *area; or*

20 “(ii) *limitations in their structural ca-*
21 *capacity to support adequate networks*
22 *throughout an entire service area as a result*
23 *of the delivery system model of the MA local*
24 *plan.”.*

25 (2) *CONFORMING AMENDMENTS.—*

1 (A) *IN GENERAL.*—

2 (i) *Section 1851(b)(1) of the Social Se-*
3 *curity Act (42 U.S.C. 1395w–21(b)(1)) is*
4 *amended by striking subparagraph (C).*

5 (ii) *Section 1853(b)(1)(B)(i) of such*
6 *Act (42 U.S.C. 1395w–23(b)(1)(B)(i))—*

7 (I) *in the matter preceding sub-*
8 *clause (I), by striking “MA payment*
9 *area” and inserting “MA local area*
10 *(as defined in subsection (d)(2))”; and*

11 (II) *in subclause (I), by striking*
12 *“MA payment area” and inserting*
13 *“MA local area (as so defined)”.*

14 (iii) *Section 1853(b)(4) of such Act (42*
15 *U.S.C. 1395w–23(b)(4)) is amended by*
16 *striking “Medicare Advantage payment*
17 *area” and inserting “MA local area (as so*
18 *defined)”.*

19 (iv) *Section 1853(c)(1) of such Act (42*
20 *U.S.C. 1395w–23(c)(1)) is amended—*

21 (I) *in the matter preceding sub-*
22 *paragraph (A), by striking “a Medi-*
23 *care Advantage payment area that is”;*
24 *and*

1 (II) in subparagraph (D)(i), by
2 striking “MA payment area” and in-
3 serting “MA local area (as defined in
4 subsection (d)(2))”.

5 (v) Section 1854 of such Act (42
6 U.S.C. 1395w-24) is amended by striking
7 subsection (h).

8 (B) *EFFECTIVE DATE.*—The amendments
9 made by this paragraph shall take effect on Jan-
10 uary 1, 2012.

11 (f) *PERFORMANCE BONUSES.*—

12 (1) *MA PLANS.*—

13 (A) *IN GENERAL.*—Section 1853 of the So-
14 cial Security Act (42 U.S.C. 1395w-23) is
15 amended by adding at the end the following new
16 subsection:

17 “(n) *PERFORMANCE BONUSES.*—

18 “(1) *CARE COORDINATION AND MANAGEMENT*
19 *PERFORMANCE BONUS.*—

20 “(A) *IN GENERAL.*—For years beginning
21 with 2014, subject to subparagraph (B), in the
22 case of an MA plan that conducts 1 or more pro-
23 grams described in subparagraph (C) with re-
24 spect to the year, the Secretary shall, in addition
25 to any other payment provided under this part,

1 *make monthly payments, with respect to cov-*
2 *erage of an individual under this part, to the*
3 *MA plan in an amount equal to the product of—*

4 *“(i) 0.5 percent of the national month-*
5 *ly per capita cost for expenditures for indi-*
6 *viduals enrolled under the original medicare*
7 *fee-for-service program for the year; and*

8 *“(ii) the total number of programs de-*
9 *scribed in clauses (i) through (ix) of sub-*
10 *paragraph (C) that the Secretary deter-*
11 *mines the plan is conducting for the year*
12 *under such subparagraph.*

13 *“(B) LIMITATION.—In no case may the*
14 *total amount of payment with respect to a year*
15 *under subparagraph (A) be greater than 2 per-*
16 *cent of the national monthly per capita cost for*
17 *expenditures for individuals enrolled under the*
18 *original medicare fee-for-service program for the*
19 *year, as determined prior to the application of*
20 *risk adjustment under paragraph (4).*

21 *“(C) PROGRAMS DESCRIBED.—The fol-*
22 *lowing programs are described in this para-*
23 *graph:*

24 *“(i) Care management programs*
25 *that—*

1 “(I) target individuals with 1 or
2 more chronic conditions;

3 “(II) identify gaps in care; and

4 “(III) facilitate improved care by
5 using additional resources like nurses,
6 nurse practitioners, and physician as-
7 sistants.

8 “(ii) Programs that focus on patient
9 education and self-management of health
10 conditions, including interventions that—

11 “(I) help manage chronic condi-
12 tions;

13 “(II) reduce declines in health sta-
14 tus; and

15 “(III) foster patient and provider
16 collaboration.

17 “(iii) Transitional care interventions
18 that focus on care provided around a hos-
19 pital inpatient episode, including programs
20 that target post-discharge patient care in
21 order to reduce unnecessary health com-
22 plications and readmissions.

23 “(iv) Patient safety programs, includ-
24 ing provisions for hospital-based patient
25 safety programs in contracts that the Medi-

1 *care Advantage organization offering the*
2 *MA plan has with hospitals.*

3 “(v) *Financial policies that promote*
4 *systematic coordination of care by primary*
5 *care physicians across the full spectrum of*
6 *specialties and sites of care, such as medical*
7 *homes, capitation arrangements, or pay-for-*
8 *performance programs.*

9 “(vi) *Programs that address, identify,*
10 *and ameliorate health care disparities*
11 *among principal at-risk subpopulations.*

12 “(vii) *Medication therapy management*
13 *programs that are more extensive than is*
14 *required under section 1860D–4(c) (as de-*
15 *termined by the Secretary).*

16 “(viii) *Health information technology*
17 *programs, including clinical decision sup-*
18 *port and other tools to facilitate data collec-*
19 *tion and ensure patient-centered, appro-*
20 *priate care.*

21 “(ix) *Such other care management and*
22 *coordination programs as the Secretary de-*
23 *termines appropriate.*

24 “(D) *CONDUCT OF PROGRAM IN URBAN AND*
25 *RURAL AREAS.—An MA plan may conduct a*

1 *program described in subparagraph (C) in a*
2 *manner appropriate for an urban or rural area,*
3 *as applicable.*

4 “(E) *REPORTING OF DATA.—Each Medicare*
5 *Advantage organization shall provide to the Sec-*
6 *retary the information needed to determine*
7 *whether they are eligible for a care coordination*
8 *and management performance bonus at a time*
9 *and in a manner specified by the Secretary.*

10 “(F) *PERIODIC AUDITING.—The Secretary*
11 *shall provide for the annual auditing of pro-*
12 *grams described in subparagraph (C) for which*
13 *an MA plan receives a care coordination and*
14 *management performance bonus under this para-*
15 *graph. The Comptroller General shall monitor*
16 *auditing activities conducted under this sub-*
17 *paragraph.*

18 “(2) *QUALITY PERFORMANCE BONUSES.—*

19 “(A) *QUALITY BONUS.—For years begin-*
20 *ning with 2014, the Secretary shall, in addition*
21 *to any other payment provided under this part,*
22 *make monthly payments, with respect to cov-*
23 *erage of an individual under this part, to an MA*
24 *plan that achieves at least a 3 star rating (or*

1 *comparable rating) on a rating system described*
2 *in subparagraph (C) in an amount equal to—*

3 “(i) *in the case of a plan that achieves*
4 *a 3 star rating (or comparable rating) on*
5 *such system 2 percent of the national*
6 *monthly per capita cost for expenditures for*
7 *individuals enrolled under the original*
8 *medicare fee-for-service program for the*
9 *year; and*

10 “(ii) *in the case of a plan that achieves*
11 *a 4 or 5 star rating (or comparable rating*
12 *on such system, 4 percent of such national*
13 *monthly per capita cost for the year.*

14 “(B) *IMPROVED QUALITY BONUS.—For*
15 *years beginning with 2014, in the case of an MA*
16 *plan that does not receive a quality bonus under*
17 *subparagraph (A) and is an improved quality*
18 *MA plan with respect to the year (as identified*
19 *by the Secretary), the Secretary shall, in addi-*
20 *tion to any other payment provided under this*
21 *part, make monthly payments, with respect to*
22 *coverage of an individual under this part, to the*
23 *MA plan in an amount equal to 1 percent of*
24 *such national monthly per capita cost for the*
25 *year.*

1 “(C) *USE OF RATING SYSTEM.*—For pur-
2 poses of subparagraph (A), a rating system de-
3 scribed in this paragraph is—

4 “(i) a rating system that uses up to 5
5 stars to rate clinical quality and enrollee
6 satisfaction and performance at the Medi-
7 care Advantage contract or MA plan level;
8 or

9 “(ii) such other system established by
10 the Secretary that provides for the deter-
11 mination of a comparable quality perform-
12 ance rating to the rating system described
13 in clause (i).

14 “(D) *DATA USED IN DETERMINING*
15 *SCORE.*—

16 “(i) *IN GENERAL.*—The rating of an
17 MA plan under the rating system described
18 in subparagraph (C) with respect to a year
19 shall be based on based on the most recent
20 data available.

21 “(ii) *PLANS THAT FAIL TO REPORT*
22 *DATA.*—An MA plan which does not report
23 data that enables the Secretary to rate the
24 plan for purposes of subparagraph (A) or
25 identify the plan for purposes of subpara-

1 *graph (B) shall be counted, for purposes of*
2 *such rating or identification, as having the*
3 *lowest plan performance rating and the*
4 *lowest percentage improvement, respectively.*

5 “(3) *QUALITY BONUS FOR NEW AND LOW EN-*
6 *ROLLMENT MA PLANS.—*

7 “(A) *NEW MA PLANS.—For years beginning*
8 *with 2014, in the case of an MA plan that first*
9 *submits a bid under section 1854(a)(1)(A) for*
10 *2012 or a subsequent year, only receives enroll-*
11 *ments made during the coverage election periods*
12 *described in section 1851(e), and is not able to*
13 *receive a bonus under subparagraph (A) or (B)*
14 *of paragraph (2) for the year, the Secretary*
15 *shall, in addition to any other payment provided*
16 *under this part, make monthly payments, with*
17 *respect to coverage of an individual under this*
18 *part, to the MA plan in an amount equal to 2*
19 *percent of national monthly per capita cost for*
20 *expenditures for individuals enrolled under the*
21 *original medicare fee-for-service program for the*
22 *year. In its fourth year of operation, the MA*
23 *plan shall be paid in the same manner as other*
24 *MA plans with comparable enrollment.*

1 “(B) *LOW ENROLLMENT PLANS.*—For years
2 beginning with 2014, in the case of an MA plan
3 that has low enrollment (as defined by the Sec-
4 retary) and would not otherwise be able to re-
5 ceive a bonus under subparagraph (A) or (B) of
6 paragraph (2) or subparagraph (A) of this para-
7 graph for the year (referred to in this subpara-
8 graph as a ‘low enrollment plan’), the Secretary
9 shall use a regional or local mean of the rating
10 of all MA plans in the region or local area, as
11 determined appropriate by the Secretary, on
12 measures used to determine whether MA plans
13 are eligible for a quality or an improved quality
14 bonus, as applicable, to determine whether the
15 low enrollment plan is eligible for a bonus under
16 such a subparagraph.

17 “(4) *RISK ADJUSTMENT.*—The Secretary shall
18 risk adjust a performance bonus under this subsection
19 in the same manner as the Secretary risk adjusts ben-
20 eficiary rebates described in section 1854(b)(1)(C).

21 “(5) *NOTIFICATION.*—The Secretary, in the an-
22 nual announcement required under subsection
23 (b)(1)(B) for 2014 and each succeeding year, shall no-
24 tify the Medicare Advantage organization of any per-
25 formance bonus (including a care coordination and

1 *management performance bonus under paragraph (1),*
2 *a quality performance bonus under paragraph (2),*
3 *and a quality bonus for new and low enrollment*
4 *plans under paragraph (3)) that the organization will*
5 *receive under this subsection with respect to the year.*
6 *The Secretary shall provide for the publication of the*
7 *information described in the previous sentence on the*
8 *Internet website of the Centers for Medicare & Med-*
9 *icaid Services.”*

10 (B) *CONFORMING AMENDMENT.—Section*
11 *1853(a)(1)(B) of the Social Security Act (42*
12 *U.S.C. 1395w–23(a)(1)(B)) is amended—*

13 *(i) in clause (i), by inserting “and any*
14 *performance bonus under subsection (n)”*
15 *before the period at the end; and*

16 *(ii) in clause (ii), by striking “(G)”*
17 *and inserting “(G), plus the amount (if*
18 *any) of any performance bonus under sub-*
19 *section (n)”.*

20 (2) *APPLICATION OF PERFORMANCE BONUSES TO*
21 *MA REGIONAL PLANS.—Section 1858 of the Social Se-*
22 *curity Act (42 U.S.C. 1395w–27a) is amended—*

23 (A) *in subsection (f)(1), by striking “sub-*
24 *section (e)” and inserting “subsections (e) and*
25 *(i)”;* *and*

1 (B) by adding at the end the following new
2 subsection:

3 “(i) *APPLICATION OF PERFORMANCE BONUSES TO MA*
4 *REGIONAL PLANS.—For years beginning with 2014, the*
5 *Secretary shall apply the performance bonuses under sec-*
6 *tion 1853(n) (relating to bonuses for care coordination and*
7 *management, quality performance, and new and low enroll-*
8 *ment MA plans) to MA regional plans in a similar manner*
9 *as such performance bonuses apply to MA plans under such*
10 *subsection.”.*

11 (g) *GRANDFATHERING SUPPLEMENTAL BENEFITS FOR*
12 *CURRENT ENROLLEES AFTER IMPLEMENTATION OF COM-*
13 *PETITIVE BIDDING.—Section 1853 of the Social Security*
14 *Act (42 U.S.C. 1395w–23), as amended by subsection (f),*
15 *is amended by adding at the end the following new sub-*
16 *section:*

17 “(o) *GRANDFATHERING SUPPLEMENTAL BENEFITS*
18 *FOR CURRENT ENROLLES AFTER IMPLEMENTATION OF*
19 *COMPETITIVE BIDDING.—*

20 “(1) *IDENTIFICATION OF AREAS.—The Secretary*
21 *shall identify MA local areas in which, with respect*
22 *to 2009, average bids submitted by an MA organiza-*
23 *tion under section 1854(a) for MA local plans in the*
24 *area are not greater than 75 percent of the adjusted*
25 *average per capita cost for the year involved, deter-*

1 *mined under section 1876(a)(4), for the area for indi-*
2 *viduals who are not enrolled in an MA plan under*
3 *this part for the year, but adjusted to exclude costs at-*
4 *tributable to payments under section 1848(o),*
5 *1886(n), and 1886(h).*

6 “(2) *ELECTION TO PROVIDE REBATES TO GRAND-*
7 *FATHERED ENROLLEES.—*

8 “(A) *IN GENERAL.—For years beginning*
9 *with 2012, each Medicare Advantage organiza-*
10 *tion offering an MA local plan in an area iden-*
11 *tified by the Secretary under paragraph (1) may*
12 *elect to provide rebates to grandfathered enrollees*
13 *under section 1854(b)(1)(C). In the case where*
14 *an MA organization makes such an election, the*
15 *monthly per capita dollar amount of such re-*
16 *bates shall not exceed the applicable amount for*
17 *the year (as defined in subparagraph (B)).*

18 “(B) *APPLICABLE AMOUNT.—For purposes*
19 *of this subsection, the term ‘applicable amount’*
20 *means—*

21 “(i) *for 2012, the monthly per capita*
22 *dollar amount of such rebates provided to*
23 *enrollees under the MA local plan with re-*
24 *spect to 2011; and*

1 “(ii) for a subsequent year, 95 percent
2 of the amount determined under this sub-
3 paragraph for the preceding year.

4 “(3) *SPECIAL RULES FOR PLANS IN IDENTIFIED*
5 *AREAS.*—Notwithstanding any other provision of this
6 part, the following shall apply with respect to each
7 Medicare Advantage organization offering an MA
8 local plan in an area identified by the Secretary
9 under paragraph (1) that makes an election described
10 in paragraph (2):

11 “(A) *PAYMENTS.*—The amount of the
12 monthly payment under this section to the Medi-
13 care Advantage organization, with respect to cov-
14 erage of a grandfathered enrollee under this part
15 in the area for a month, shall be equal to—

16 “(i) for 2012 and 2013, the sum of—

17 “(I) the bid amount under section
18 1854(a) for the MA local plan; and

19 “(II) the applicable amount (as
20 defined in paragraph (2)(B)) for the
21 MA local plan for the year.

22 “(ii) for 2014 and subsequent years,
23 the sum of—

24 “(I) the MA competitive bench-
25 mark amount under subsection

1 (j)(1)(A)(i) for the area for the month,
2 adjusted, only to the extent the Sec-
3 retary determines necessary, to account
4 for induced utilization as a result of
5 rebates provided to grandfathered en-
6 rollees (except that such adjustment
7 shall not exceed 0.5 percent of such MA
8 competitive benchmark amount); and

9 “(II) the applicable amount (as so
10 defined) for the MA local plan for the
11 year.

12 “(B) *REQUIREMENT TO SUBMIT BIDS*
13 *UNDER COMPETITIVE BIDDING.*—*The Medicare*
14 *Advantage organization shall submit a single bid*
15 *amount under section 1854(a) for the MA local*
16 *plan. The Medicare Advantage organization shall*
17 *remove from such bid amount any effects of in-*
18 *duced demand for care that may result from the*
19 *higher rebates available to grandfathered enroll-*
20 *ees under this subsection.*

21 “(C) *NONAPPLICATION OF BONUS PAYMENTS*
22 *AND ANY OTHER REBATES.*—*The Medicare Ad-*
23 *vantage organization offering the MA local plan*
24 *shall not be eligible for any bonus payment*
25 *under subsection (n) or any rebate under this*

1 *part (other than as provided under this sub-*
2 *section) with respect to grandfathered enrollees.*

3 “(D) *NONAPPLICATION OF UNIFORM BID*
4 *AND PREMIUM AMOUNTS TO GRANDFATHERED*
5 *ENROLLEES.—Section 1854(c) shall not apply*
6 *with respect to the MA local plan.*

7 “(E) *NONAPPLICATION OF LIMITATION ON*
8 *APPLICATION OF PLAN REBATES TOWARD PAY-*
9 *MENT OF PART B PREMIUM.—Notwithstanding*
10 *clause (iii) of section 1854(b)(1)(C), in the case*
11 *of a grandfathered enrollee, a rebate under such*
12 *section may be used for the purpose described in*
13 *clause (ii)(III) of such section.*

14 “(F) *RISK ADJUSTMENT.—The Secretary*
15 *shall risk adjust rebates to grandfathered enroll-*
16 *ees under this subsection in the same manner as*
17 *the Secretary risk adjusts beneficiary rebates de-*
18 *scribed in section 1854(b)(1)(C).*

19 “(4) *DEFINITION OF GRANDFATHERED EN-*
20 *ROLLEE.—In this subsection, the term ‘grandfathered*
21 *enrollee’ means an individual who is enrolled (effec-*
22 *tive as of the date of enactment of this subsection) in*
23 *an MA local plan in an area that is identified by the*
24 *Secretary under paragraph (1).”.*

1 (h) *TRANSITIONAL EXTRA BENEFITS.*—Section 1853
2 of the Social Security Act (42 U.S.C. 1395w–23), as amend-
3 ed by subsections (f) and (g), is amended by adding at the
4 end the following new subsection:

5 “(p) *TRANSITIONAL EXTRA BENEFITS.*—

6 “(1) *IN GENERAL.*—For years beginning with
7 2012, the Secretary shall provide transitional rebates
8 under section 1854(b)(1)(C) for the provision of extra
9 benefits (as specified by the Secretary) to enrollees de-
10 scribed in paragraph (2).

11 “(2) *ENROLLEES DESCRIBED.*—An enrollee de-
12 scribed in this paragraph is an individual who—

13 “(A) enrolls in an MA local plan in an ap-
14 plicable area; and

15 “(B) experiences a significant reduction in
16 extra benefits described in clause (ii) of section
17 1854(b)(1)(C) as a result of competitive bidding
18 under this part (as determined by the Secretary).

19 “(3) *APPLICABLE AREAS.*—In this subsection, the
20 term ‘applicable area’ means the following:

21 “(A) The 2 largest metropolitan statistical
22 areas, if the Secretary determines that the total
23 amount of such extra benefits for each enrollee
24 for the month in those areas is greater than
25 \$100.

1 “(B) A county where—

2 “(i) the MA area-specific non-drug
3 monthly benchmark amount for a month in
4 2011 is equal to the legacy urban floor
5 amount (as described in subsection
6 (c)(1)(B)(iii)), as determined by the Sec-
7 retary for the area for 2011;

8 “(ii) the percentage of Medicare Ad-
9 vantage eligible beneficiaries in the county
10 who are enrolled in an MA plan for 2009
11 is greater than 30 percent (as determined
12 by the Secretary); and

13 “(iii) average bids submitted by an
14 MA organization under section 1854(a) for
15 MA local plans in the county for 2011 are
16 not greater than the adjusted average per
17 capita cost for the year involved, deter-
18 mined under section 1876(a)(4), for the
19 county for individuals who are not enrolled
20 in an MA plan under this part for the year,
21 but adjusted to exclude costs attributable to
22 payments under section 1848(o), 1886(n),
23 and 1886(h).

24 “(C) If the Secretary determines appro-
25 priate, a county contiguous to an area or county

1 *described in subparagraph (A) or (B), respec-*
2 *tively.*

3 “(4) *REVIEW OF PLAN BIDS.—In the case of a*
4 *bid submitted by an MA organization under section*
5 *1854(a) for an MA local plan in an applicable area,*
6 *the Secretary shall review such bid in order to ensure*
7 *that extra benefits (as specified by the Secretary) are*
8 *provided to enrollees described in paragraph (2).*

9 “(5) *FUNDING.—The Secretary shall provide for*
10 *the transfer from the Federal Hospital Insurance*
11 *Trust Fund under section 1817 and the Federal Sup-*
12 *plementary Medical Insurance Trust Fund established*
13 *under section 1841, in such proportion as the Sec-*
14 *retary determines appropriate, of an amount not to*
15 *exceed \$5,000,000,000 for the period of fiscal years*
16 *2012 through 2019 for the purpose of providing tran-*
17 *sitional rebates under section 1854(b)(1)(C) for the*
18 *provision of extra benefits under this subsection.”.*

19 *(i) NONAPPLICATION OF COMPETITIVE BIDDING AND*
20 *RELATED PROVISIONS AND CLARIFICATION OF MA PAY-*
21 *MENT AREA FOR PACE PROGRAMS.—*

22 *(1) NONAPPLICATION OF COMPETITIVE BIDDING*
23 *AND RELATED PROVISIONS FOR PACE PROGRAMS.—*
24 *Section 1894 of the Social Security Act (42 U.S.C.*
25 *1395eee) is amended—*

1 (A) by redesignating subsections (h) and (i)
2 as subsections (i) and (j), respectively;

3 (B) by inserting after subsection (g) the fol-
4 lowing new subsection:

5 “(h) *NONAPPLICATION OF COMPETITIVE BIDDING AND*
6 *RELATED PROVISIONS UNDER PART C.*—With respect to a
7 *PACE* program under this section, the following provisions
8 (and regulations relating to such provisions) shall not
9 apply:

10 “(1) Section 1853(j)(1)(A)(i), relating to MA
11 area-specific non-drug monthly benchmark amount
12 being based on competitive bids.

13 “(2) Section 1853(d)(5), relating to the establish-
14 ment of MA local plan service areas.

15 “(3) Section 1853(n), relating to the payment of
16 performance bonuses.

17 “(4) Section 1853(o), relating to grandfathering
18 supplemental benefits for current enrollees after im-
19 plementation of competitive bidding.

20 “(5) Section 1853(p), relating to transitional
21 extra benefits.”.

22 (2) *SPECIAL RULE FOR MA PAYMENT AREA FOR*
23 *PACE PROGRAMS.*—Section 1853(d) of the Social Se-
24 curity Act (42 U.S.C. 1395w–23(d)), as amended by

1 *subsection (e), is amended by adding at the end the*
2 *following new paragraph:*

3 *“(6) SPECIAL RULE FOR MA PAYMENT AREA FOR*
4 *PACE PROGRAMS.—For years beginning with 2012, in*
5 *the case of a PACE program under section 1894, the*
6 *MA payment area shall be the MA local area (as de-*
7 *finied in paragraph (2)).”.*

8 **SEC. 3202. BENEFIT PROTECTION AND SIMPLIFICATION.**

9 *(a) LIMITATION ON VARIATION OF COST SHARING FOR*
10 *CERTAIN BENEFITS.—*

11 *(1) IN GENERAL.—Section 1852(a)(1)(B) of the*
12 *Social Security Act (42 U.S.C. 1395w–22(a)(1)(B)) is*
13 *amended—*

14 *(A) in clause (i), by inserting “, subject to*
15 *clause (iii),” after “and B or”; and*

16 *(B) by adding at the end the following new*
17 *clauses:*

18 *“(iii) LIMITATION ON VARIATION OF*
19 *COST SHARING FOR CERTAIN BENEFITS.—*
20 *Subject to clause (v), cost-sharing for serv-*
21 *ices described in clause (iv) shall not exceed*
22 *the cost-sharing required for those services*
23 *under parts A and B.*

24 *“(iv) SERVICES DESCRIBED.—The fol-*
25 *lowing services are described in this clause:*

1 “(I) *Chemotherapy administration*
2 *services.*

3 “(II) *Renal dialysis services (as*
4 *defined in section 1881(b)(14)(B)).*

5 “(III) *Skilled nursing care.*

6 “(IV) *Such other services that the*
7 *Secretary determines appropriate (in-*
8 *cluding services that the Secretary de-*
9 *termines require a high level of predict-*
10 *ability and transparency for bene-*
11 *ficiaries).*

12 “(v) *EXCEPTION.—In the case of serv-*
13 *ices described in clause (iv) for which there*
14 *is no cost-sharing required under parts A*
15 *and B, cost-sharing may be required for*
16 *those services in accordance with clause*
17 *(i).”.*

18 (2) *EFFECTIVE DATE.—The amendments made*
19 *by this subsection shall apply to plan years beginning*
20 *on or after January 1, 2011.*

21 (b) *APPLICATION OF REBATES, PERFORMANCE BO-*
22 *NUSES, AND PREMIUMS.—*

23 (1) *APPLICATION OF REBATES.—Section*
24 *1854(b)(1)(C) of the Social Security Act (42 U.S.C.*
25 *1395w-24(b)(1)(C)) is amended—*

1 (A) in clause (ii), by striking “REBATE.—
2 A rebate” and inserting “REBATE FOR PLAN
3 YEARS BEFORE 2012.—For plan years before
4 2012, a rebate”;

5 (B) by redesignating clauses (iii) and (iv)
6 as clauses (iv) and (v); and

7 (C) by inserting after clause (ii) the fol-
8 lowing new clause:

9 “(iii) FORM OF REBATE FOR PLAN
10 YEAR 2012 AND SUBSEQUENT PLAN YEARS.—
11 For plan years beginning on or after Janu-
12 ary 1, 2012, a rebate required under this
13 subparagraph may not be used for the pur-
14 pose described in clause (ii)(III) and shall
15 be provided through the application of the
16 amount of the rebate in the following pri-
17 ority order:

18 “(I) First, to use the most signifi-
19 cant share to meaningfully reduce cost-
20 sharing otherwise applicable for bene-
21 fits under the original medicare fee-for-
22 service program under parts A and B
23 and for qualified prescription drug
24 coverage under part D, including the
25 reduction of any deductibles, copay-

1 *ments, and maximum limitations on*
2 *out-of-pocket expenses otherwise appli-*
3 *cable. Any reduction of maximum lim-*
4 *itations on out-of-pocket expenses*
5 *under the preceding sentence shall*
6 *apply to all benefits under the original*
7 *medicare fee-for-service program op-*
8 *tion. The Secretary may provide guid-*
9 *ance on meaningfully reducing cost-*
10 *sharing under this subclause, except*
11 *that such guidance may not require a*
12 *particular amount of cost-sharing or*
13 *reduction in cost-sharing.*

14 *“(II) Second, to use the next most*
15 *significant share to meaningfully pro-*
16 *vide coverage of preventive and*
17 *wellness health care benefits (as defined*
18 *by the Secretary) which are not bene-*
19 *fits under the original medicare fee-for-*
20 *service program, such as smoking ces-*
21 *sation, a free flu shot, and an annual*
22 *physical examination.*

23 *“(III) Third, to use the remaining*
24 *share to meaningfully provide coverage*
25 *of other health care benefits which are*

1 *not benefits under the original medi-*
2 *care fee-for-service program, such as*
3 *eye examinations and dental coverage,*
4 *and are not benefits described in sub-*
5 *clause (II).”.*

6 (2) *APPLICATION OF PERFORMANCE BONUSES.—*
7 *Section 1853(n) of the Social Security Act, as added*
8 *by section 3201(f), is amended by adding at the end*
9 *the following new paragraph:*

10 “(6) *APPLICATION OF PERFORMANCE BO-*
11 *NUSES.—For plan years beginning on or after Janu-*
12 *ary 1, 2014, any performance bonus paid to an MA*
13 *plan under this subsection shall be used for the pur-*
14 *poses, and in the priority order, described in sub-*
15 *clauses (I) through (III) of section*
16 *1854(b)(1)(C)(iii).”.*

17 (3) *APPLICATION OF MA MONTHLY SUPPLE-*
18 *MENTARY BENEFICIARY PREMIUM.—Section*
19 *1854(b)(2)(C) of the Social Security Act (42 U.S.C.*
20 *1395w-24(b)(2)(C)) is amended—*

21 (A) *by striking “PREMIUM.—The term” and*
22 *inserting “PREMIUM.—*

23 *“(i) IN GENERAL.—The term”; and*

24 (B) *by adding at the end the following new*
25 *clause:*

1 “(ii) *APPLICATION OF MA MONTHLY*
2 *SUPPLEMENTARY BENEFICIARY PREMIUM.—*
3 *For plan years beginning on or after Janu-*
4 *ary 1, 2012, any MA monthly supple-*
5 *mentary beneficiary premium charged to an*
6 *individual enrolled in an MA plan shall be*
7 *used for the purposes, and in the priority*
8 *order, described in subclauses (I) through*
9 *(III) of paragraph (1)(C)(iii).”.*

10 **SEC. 3203. APPLICATION OF CODING INTENSITY ADJUST-**
11 **MENT DURING MA PAYMENT TRANSITION.**

12 *Section 1853(a)(1)(C) of the Social Security Act (42*
13 *U.S.C. 1395w-23(a)(1)(C)) is amended by adding at the*
14 *end the following new clause:*

15 “(iii) *APPLICATION OF CODING INTEN-*
16 *SITY ADJUSTMENT FOR 2011 AND SUBSE-*
17 *QUENT YEARS.—*

18 “(I) *REQUIREMENT TO APPLY IN*
19 *2011 THROUGH 2013.—In order to en-*
20 *sure payment accuracy, the Secretary*
21 *shall conduct an analysis of the dif-*
22 *ferences described in clause (ii)(I). The*
23 *Secretary shall ensure that the results*
24 *of such analysis are incorporated into*

1 *the risk scores for 2011, 2012, and*
2 *2013.*

3 “(II) *AUTHORITY TO APPLY IN*
4 *2014 AND SUBSEQUENT YEARS.—The*
5 *Secretary may, as appropriate, incor-*
6 *porate the results of such analysis into*
7 *the risk scores for 2014 and subsequent*
8 *years.”.*

9 **SEC. 3204. SIMPLIFICATION OF ANNUAL BENEFICIARY**
10 **ELECTION PERIODS.**

11 (a) *ANNUAL 45-DAY PERIOD FOR DISENROLLMENT*
12 *FROM MA PLANS TO ELECT TO RECEIVE BENEFITS*
13 *UNDER THE ORIGINAL MEDICARE FEE-FOR-SERVICE PRO-*
14 *GRAM.—*

15 (1) *IN GENERAL.—Section 1851(e)(2)(C) of the*
16 *Social Security Act (42 U.S.C. 1395w-1(e)(2)(C)) is*
17 *amended to read as follows:*

18 “(C) *ANNUAL 45-DAY PERIOD FOR*
19 *DISENROLLMENT FROM MA PLANS TO ELECT TO*
20 *RECEIVE BENEFITS UNDER THE ORIGINAL MEDI-*
21 *CARE FEE-FOR-SERVICE PROGRAM.—Subject to*
22 *subparagraph (D), at any time during the first*
23 *45 days of a year (beginning with 2011), an in-*
24 *dividual who is enrolled in a Medicare Advan-*
25 *tage plan may change the election under sub-*

1 *section (a)(1), but only with respect to coverage*
2 *under the original medicare fee-for-service pro-*
3 *gram under parts A and B, and may elect quali-*
4 *fied prescription drug coverage in accordance*
5 *with section 1860D-1.”.*

6 (2) *EFFECTIVE DATE.*—*The amendment made by*
7 *paragraph (1) shall apply with respect to 2011 and*
8 *succeeding years.*

9 (b) *TIMING OF THE ANNUAL, COORDINATED ELECTION*
10 *PERIOD UNDER PARTS C AND D.*—*Section 1851(e)(3)(B)*
11 *of the Social Security Act (42 U.S.C. 1395w-1(e)(3)(B))*
12 *is amended—*

13 (1) *in clause (iii), by striking “and” at the end;*

14 (2) *in clause (iv)—*

15 (A) *by striking “and succeeding years” and*
16 *inserting “, 2008, 2009, and 2010”; and*

17 (B) *by striking the period at the end and*
18 *inserting “; and”; and*

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

21 “(v) *with respect to 2012 and suc-*
22 *ceeding years, the period beginning on Octo-*
23 *ber 15 and ending on December 7 of the*
24 *year before such year.”.*

1 **SEC. 3205. EXTENSION FOR SPECIALIZED MA PLANS FOR**
2 **SPECIAL NEEDS INDIVIDUALS.**

3 (a) *EXTENSION OF SNP AUTHORITY.*—Section
4 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–
5 28(f)(1)), as amended by section 164(a) of the Medicare Im-
6 provements for Patients and Providers Act of 2008 (Public
7 Law 110–275), is amended by striking “2011” and insert-
8 ing “2014”.

9 (b) *AUTHORITY TO APPLY FRAILTY ADJUSTMENT*
10 *UNDER PACE PAYMENT RULES.*—Section 1853(a)(1)(B) of
11 the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B)) is
12 amended by adding at the end the following new clause:

13 “(i) *AUTHORITY TO APPLY FRAILTY*
14 *ADJUSTMENT UNDER PACE PAYMENT RULES*
15 *FOR CERTAIN SPECIALIZED MA PLANS FOR*
16 *SPECIAL NEEDS INDIVIDUALS.*—

17 “(I) *IN GENERAL.*—Notwith-
18 standing the preceding provisions of
19 this paragraph, for plan year 2011
20 and subsequent plan years, in the case
21 of a plan described in subclause (II),
22 the Secretary may apply the payment
23 rules under section 1894(d) (other than
24 paragraph (3) of such section) rather
25 than the payment rules that would oth-
26 erwise apply under this part, but only

1 to the extent necessary to reflect the
2 costs of treating high concentrations of
3 frail individuals.

4 “(II) *PLAN DESCRIBED.*—A plan
5 described in this subclause is a special-
6 ized MA plan for special needs individ-
7 uals described in section
8 1859(b)(6)(B)(ii) that is fully inte-
9 grated with capitated contracts with
10 States for Medicaid benefits, including
11 long-term care, and that have similar
12 average levels of frailty (as determined
13 by the Secretary) as the PACE pro-
14 gram.”.

15 (c) *TRANSITION AND EXCEPTION REGARDING RE-*
16 *STRICTION ON ENROLLMENT.*—Section 1859(f) of the Social
17 Security Act (42 U.S.C. 1395w-28(f)) is amended by add-
18 ing at the end the following new paragraph:

19 “(6) *TRANSITION AND EXCEPTION REGARDING*
20 *RESTRICTION ON ENROLLMENT.*—

21 “(A) *IN GENERAL.*—Subject to subpara-
22 graph (C), the Secretary shall establish proce-
23 dures for the transition of applicable individuals
24 to—

1 “(i) a Medicare Advantage plan that is
2 not a specialized MA plan for special needs
3 individuals (as defined in subsection
4 (b)(6)); or

5 “(ii) the original medicare fee-for-serv-
6 ice program under parts A and B.

7 “(B) APPLICABLE INDIVIDUALS.—For pur-
8 poses of clause (i), the term ‘applicable indi-
9 vidual’ means an individual who—

10 “(i) is enrolled under a specialized MA
11 plan for special needs individuals (as de-
12 fined in subsection (b)(6)); and

13 “(ii) is not within the 1 or more of the
14 classes of special needs individuals to which
15 enrollment under the plan is restricted to.

16 “(C) EXCEPTION.—The Secretary shall pro-
17 vide for an exception to the transition described
18 in subparagraph (A) for a limited period of time
19 for individuals enrolled under a specialized MA
20 plan for special needs individuals described in
21 subsection (b)(6)(B)(ii) who are no longer eligi-
22 ble for medical assistance under title XIX.

23 “(D) TIMELINE FOR INITIAL TRANSITION.—
24 The Secretary shall ensure that applicable indi-
25 viduals enrolled in a specialized MA plan for

1 *special needs individuals (as defined in sub-*
2 *section (b)(6)) prior to January 1, 2010, are*
3 *transitioned to a plan or the program described*
4 *in subparagraph (A) by not later than January*
5 *1, 2013.”.*

6 *(d) TEMPORARY EXTENSION OF AUTHORITY TO OPER-*
7 *ATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPE-*
8 *CIAL NEEDS PLANS THAT DO NOT MEET CERTAIN RE-*
9 *QUIREMENTS.—Section 164(c)(2) of the Medicare Improve-*
10 *ments for Patients and Providers Act of 2008 (Public Law*
11 *110–275) is amended by striking “December 31, 2010” and*
12 *inserting “December 31, 2012”.*

13 *(e) AUTHORITY TO REQUIRE SPECIAL NEEDS PLANS*
14 *BE NCQA APPROVED.—Section 1859(f) of the Social Secu-*
15 *rity Act (42 U.S.C. 1395w–28(f)), as amended by sub-*
16 *sections (a) and (c), is amended—*

17 *(1) in paragraph (2), by adding at the end the*
18 *following new subparagraph:*

19 *“(C) If applicable, the plan meets the re-*
20 *quirement described in paragraph (7).”;*

21 *(2) in paragraph (3), by adding at the end the*
22 *following new subparagraph:*

23 *“(E) If applicable, the plan meets the re-*
24 *quirement described in paragraph (7).”;*

1 (3) in paragraph (4), by adding at the end the
2 following new subparagraph:

3 “(C) If applicable, the plan meets the re-
4 quirement described in paragraph (7).”; and

5 (4) by adding at the end the following new para-
6 graph:

7 “(7) *AUTHORITY TO REQUIRE SPECIAL NEEDS*
8 *PLANS BE NCQA APPROVED.*—For 2012 and subse-
9 quent years, the Secretary shall require that a Medi-
10 care Advantage organization offering a specialized
11 MA plan for special needs individuals be approved by
12 the National Committee for Quality Assurance (based
13 on standards established by the Secretary).”.

14 (f) *RISK ADJUSTMENT.*—Section 1853(a)(1)(C) of the
15 Social Security Act (42 U.S.C. 1395i–23(a)(1)(C)) is
16 amended by adding at the end the following new clause:

17 “(iii) *IMPROVEMENTS TO RISK AD-*
18 *JUSTMENT FOR SPECIAL NEEDS INDIVID-*
19 *UALS WITH CHRONIC HEALTH CONDI-*
20 *TIONS.*—

21 “(I) *IN GENERAL.*—For 2011 and
22 subsequent years, for purposes of the
23 adjustment under clause (i) with re-
24 spect to individuals described in sub-
25 clause (II), the Secretary shall use a

1 *risk score that reflects the known un-*
2 *derlying risk profile and chronic health*
3 *status of similar individuals. Such risk*
4 *score shall be used instead of the de-*
5 *fault risk score for new enrollees in*
6 *Medicare Advantage plans that are not*
7 *specialized MA plans for special needs*
8 *individuals (as defined in section*
9 *1859(b)(6)).*

10 *“(II) INDIVIDUALS DESCRIBED.—*

11 *An individual described in this sub-*
12 *clause is a special needs individual de-*
13 *scribed in subsection (b)(6)(B)(iii) who*
14 *enrolls in a specialized MA plan for*
15 *special needs individuals on or after*
16 *January 1, 2011.*

17 *“(III) EVALUATION.—For 2011*

18 *and periodically thereafter, the Sec-*
19 *retary shall evaluate and revise the*
20 *risk adjustment system under this sub-*
21 *paragraph in order to, as accurately as*
22 *possible, account for higher medical*
23 *and care coordination costs associated*
24 *with frailty, individuals with multiple,*
25 *comorbid chronic conditions, and indi-*

1 *viduals with a diagnosis of mental ill-*
2 *ness, and also to account for costs that*
3 *may be associated with higher con-*
4 *centrations of beneficiaries with those*
5 *conditions.*

6 “(IV) *PUBLICATION OF EVALUA-*
7 *TION AND REVISIONS.—The Secretary*
8 *shall publish, as part of an announce-*
9 *ment under subsection (b), a descrip-*
10 *tion of any evaluation conducted under*
11 *subclause (III) during the preceding*
12 *year and any revisions made under*
13 *such subclause as a result of such eval-*
14 *uation.”.*

15 *(g) TECHNICAL CORRECTION.—Section 1859(f)(5) of*
16 *the Social Security Act (42 U.S.C. 1395w–28(f)(5)) is*
17 *amended, in the matter preceding subparagraph (A), by*
18 *striking “described in subsection (b)(6)(B)(i)”.*

19 **SEC. 3206. EXTENSION OF REASONABLE COST CONTRACTS.**

20 *Section 1876(h)(5)(C)(ii) of the Social Security Act*
21 *(42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter*
22 *preceding subclause (I), by striking “January 1, 2010” and*
23 *inserting “January 1, 2013”.*

1 **SEC. 3207. TECHNICAL CORRECTION TO MA PRIVATE FEE-**
2 **FOR-SERVICE PLANS.**

3 *For plan year 2011 and subsequent plan years, to the*
4 *extent that the Secretary of Health and Human Services*
5 *is applying the 2008 service area extension waiver policy*
6 *(as modified in the April 11, 2008, Centers for Medicare*
7 *& Medicaid Services' memorandum with the subject "2009*
8 *Employer Group Waiver-Modification of the 2008 Service*
9 *Area Extension Waiver Granted to Certain MA Local Co-*
10 *ordinated Care Plans") to Medicare Advantage coordinated*
11 *care plans, the Secretary shall extend the application of*
12 *such waiver policy to employers who contract directly with*
13 *the Secretary as a Medicare Advantage private fee-for-serv-*
14 *ice plan under section 1857(i)(2) of the Social Security Act*
15 *(42 U.S.C. 1395w-27(i)(2)) and that had enrollment as of*
16 *October 1, 2009.*

17 **SEC. 3208. MAKING SENIOR HOUSING FACILITY DEM-**
18 **ONSTRATION PERMANENT.**

19 *(a) IN GENERAL.—Section 1859 of the Social Security*
20 *Act (42 U.S.C. 1395w-28) is amended by adding at the*
21 *end the following new subsection:*

22 *“(g) SPECIAL RULES FOR SENIOR HOUSING FACILITY*
23 *PLANS.—*

24 *“(1) IN GENERAL.—In the case of a Medicare*
25 *Advantage senior housing facility plan described in*
26 *paragraph (2), notwithstanding any other provision*

1 *of this part to the contrary and in accordance with*
2 *regulations of the Secretary, the service area of such*
3 *plan may be limited to a senior housing facility in*
4 *a geographic area.*

5 “(2) *MEDICARE ADVANTAGE SENIOR HOUSING*
6 *FACILITY PLAN DESCRIBED.—For purposes of this*
7 *subsection, a Medicare Advantage senior housing fa-*
8 *cility plan is a Medicare Advantage plan that—*

9 “(A) *restricts enrollment of individuals*
10 *under this part to individuals who reside in a*
11 *continuing care retirement community (as de-*
12 *finied in section 1852(l)(4)(B));*

13 “(B) *provides primary care services onsite*
14 *and has a ratio of accessible physicians to bene-*
15 *ficiaries that the Secretary determines is ade-*
16 *quate;*

17 “(C) *provides transportation services for*
18 *beneficiaries to specialty providers outside of the*
19 *facility; and*

20 “(D) *has participated (as of December 31,*
21 *2009) in a demonstration project established by*
22 *the Secretary under which such a plan was of-*
23 *fered for not less than 1 year.”.*

1 **(b) EFFECTIVE DATE.**—*The amendment made by this*
2 *section shall take effect on January 1, 2010, and shall apply*
3 *to plan years beginning on or after such date.*

4 **SEC. 3209. AUTHORITY TO DENY PLAN BIDS.**

5 **(a) IN GENERAL.**—*Section 1854(a)(5) of the Social Se-*
6 *curity Act (42 U.S.C. 1395w–24(a)(5)) is amended by add-*
7 *ing at the end the following new subparagraph:*

8 **“(C) REJECTION OF BIDS.**—

9 **“(i) IN GENERAL.**—*Nothing in this sec-*
10 *tion shall be construed as requiring the Sec-*
11 *retary to accept any or every bid submitted*
12 *by an MA organization under this sub-*
13 *section.*

14 **“(ii) AUTHORITY TO DENY BIDS THAT**
15 **PROPOSE SIGNIFICANT INCREASES IN COST**
16 **SHARING OR DECREASES IN BENEFITS.**—
17 *The Secretary may deny a bid submitted by*
18 *an MA organization for an MA plan if it*
19 *proposes significant increases in cost shar-*
20 *ing or decreases in benefits offered under the*
21 *plan.”.*

22 **(b) APPLICATION UNDER PART D.**—*Section 1860D–*
23 *11(d) of such Act (42 U.S.C. 1395w–111(d)) is amended*
24 *by adding at the end the following new paragraph:*

1 “(3) *REJECTION OF BIDS.*—Paragraph (5)(C) of
2 *section 1854(a) shall apply with respect to bids sub-*
3 *mitted by a PDP sponsor under subsection (b) in the*
4 *same manner as such paragraph applies to bids sub-*
5 *mitted by an MA organization under such section*
6 *1854(a).”.*

7 “(c) *EFFECTIVE DATE.*—*The amendments made by this*
8 *section shall apply to bids submitted for contract years be-*
9 *ginning on or after January 1, 2011.*

10 **SEC. 3210. DEVELOPMENT OF NEW STANDARDS FOR CER-**
11 **TAIN MEDIGAP PLANS.**

12 “(a) *IN GENERAL.*—*Section 1882 of the Social Security*
13 *Act (42 U.S.C. 1395ss) is amended by adding at the end*
14 *the following new subsection:*

15 “(y) *DEVELOPMENT OF NEW STANDARDS FOR CER-*
16 *TAIN MEDICARE SUPPLEMENTAL POLICIES.*—

17 “(1) *IN GENERAL.*—*The Secretary shall request*
18 *the National Association of Insurance Commissioners*
19 *to review and revise the standards for benefit pack-*
20 *ages described in paragraph (2) under subsection*
21 *(p)(1), to otherwise update standards to include re-*
22 *quirements for nominal cost sharing to encourage the*
23 *use of appropriate physicians’ services under part B.*
24 *Such revisions shall be based on evidence published in*
25 *peer-reviewed journals or current examples used by*

1 *integrated delivery systems and made consistent with*
 2 *the rules applicable under subsection (p)(1)(E) with*
 3 *the reference to the ‘1991 NAIC Model Regulation’*
 4 *deemed a reference to the NAIC Model Regulation as*
 5 *published in the Federal Register on December 4,*
 6 *1998, and as subsequently updated by the National*
 7 *Association of Insurance Commissioners to reflect pre-*
 8 *vious changes in law and the reference to ‘date of en-*
 9 *actment of this subsection’ deemed a reference to the*
 10 *date of enactment of the Patient Protection and Af-*
 11 *fordable Care Act. To the extent practicable, such re-*
 12 *vision shall provide for the implementation of revised*
 13 *standards for benefit packages as of January 1, 2015.*

14 “(2) *BENEFIT PACKAGES DESCRIBED.*—*The ben-*
 15 *efit packages described in this paragraph are benefit*
 16 *packages classified as ‘C’ and ‘F’.*”

17 (b) *CONFORMING AMENDMENT.*—*Section 1882(o)(1) of*
 18 *the Social Security Act (42 U.S.C. 1395ss(o)(1)) is amended*
 19 *by striking “, and (w)” and inserting “(w), and (y)”.*

20 ***Subtitle D—Medicare Part D Im-***
 21 ***provements for Prescription***
 22 ***Drug Plans and MA–PD Plans***

23 ***SEC. 3301. MEDICARE COVERAGE GAP DISCOUNT PROGRAM.***

24 (a) *CONDITION FOR COVERAGE OF DRUGS UNDER*
 25 *PART D.*—*Part D of Title XVIII of the Social Security Act*

1 *(42 U.S.C. 1395w–101 et seq.), is amended by adding at*
2 *the end the following new section:*

3 *“CONDITION FOR COVERAGE OF DRUGS UNDER THIS PART*

4 *“SEC. 1860D–43. (a) IN GENERAL.—In order for cov-*
5 *erage to be available under this part for covered part D*
6 *drugs (as defined in section 1860D–2(e)) of a manufacturer,*
7 *the manufacturer must—*

8 *“(1) participate in the Medicare coverage gap*
9 *discount program under section 1860D–14A;*

10 *“(2) have entered into and have in effect an*
11 *agreement described in subsection (b) of such section*
12 *with the Secretary; and*

13 *“(3) have entered into and have in effect, under*
14 *terms and conditions specified by the Secretary, a*
15 *contract with a third party that the Secretary has en-*
16 *tered into a contract with under subsection (d)(3) of*
17 *such section.*

18 *“(b) EFFECTIVE DATE.—Subsection (a) shall apply to*
19 *covered part D drugs dispensed under this part on or after*
20 *July 1, 2010.*

21 *“(c) AUTHORIZING COVERAGE FOR DRUGS NOT COV-*
22 *ERED UNDER AGREEMENTS.—Subsection (a) shall not*
23 *apply to the dispensing of a covered part D drug if—*

24 *“(1) the Secretary has made a determination*
25 *that the availability of the drug is essential to the*
26 *health of beneficiaries under this part; or*

1 “(2) *the Secretary determines that in the period*
2 *beginning on July 1, 2010, and ending on December*
3 *31, 2010, there were extenuating circumstances.*

4 “(d) *DEFINITION OF MANUFACTURER.—In this sec-*
5 *tion, the term ‘manufacturer’ has the meaning given such*
6 *term in section 1860D–14A(g)(5).’.*”

7 (b) *MEDICARE COVERAGE GAP DISCOUNT PRO-*
8 *GRAM.—Part D of title XVIII of the Social Security Act*
9 *(42 U.S.C. 1395w–101) is amended by inserting after sec-*
10 *tion 1860D–14 the following new section:*

11 “*MEDICARE COVERAGE GAP DISCOUNT PROGRAM*

12 “*SEC. 1860D–14A. (a) ESTABLISHMENT.—The Sec-*
13 *retary shall establish a Medicare coverage gap discount pro-*
14 *gram (in this section referred to as the ‘program’) by not*
15 *later than July 1, 2010. Under the program, the Secretary*
16 *shall enter into agreements described in subsection (b) with*
17 *manufacturers and provide for the performance of the duties*
18 *described in subsection (c)(1). The Secretary shall establish*
19 *a model agreement for use under the program by not later*
20 *than April 1, 2010, in consultation with manufacturers,*
21 *and allow for comment on such model agreement.*

22 “(b) *TERMS OF AGREEMENT.—*

23 “(1) *IN GENERAL.—*

24 “(A) *AGREEMENT.—An agreement under*
25 *this section shall require the manufacturer to*
26 *provide applicable beneficiaries access to dis-*

1 *counted prices for applicable drugs of the manu-*
2 *facturer.*

3 “(B) *PROVISION OF DISCOUNTED PRICES AT*
4 *THE POINT-OF-SALE.—Except as provided in*
5 *subsection (c)(1)(A)(iii), such discounted prices*
6 *shall be provided to the applicable beneficiary at*
7 *the pharmacy or by the mail order service at the*
8 *point-of-sale of an applicable drug.*

9 “(C) *TIMING OF AGREEMENT.—*

10 “(i) *SPECIAL RULE FOR 2010 AND*
11 *2011.—In order for an agreement with a*
12 *manufacturer to be in effect under this sec-*
13 *tion with respect to the period beginning on*
14 *July 1, 2010, and ending on December 31,*
15 *2011, the manufacturer shall enter into such*
16 *agreement not later than May 1, 2010.*

17 “(ii) *2012 AND SUBSEQUENT YEARS.—*
18 *In order for an agreement with a manufac-*
19 *turer to be in effect under this section with*
20 *respect to plan year 2012 or a subsequent*
21 *plan year, the manufacturer shall enter into*
22 *such agreement (or such agreement shall be*
23 *renewed under paragraph (4)(A)) not later*
24 *than January 30 of the preceding year.*

1 “(2) *PROVISION OF APPROPRIATE DATA.*—Each
2 *manufacturer with an agreement in effect under this*
3 *section shall collect and have available appropriate*
4 *data, as determined by the Secretary, to ensure that*
5 *it can demonstrate to the Secretary compliance with*
6 *the requirements under the program.*

7 “(3) *COMPLIANCE WITH REQUIREMENTS FOR AD-*
8 *MINISTRATION OF PROGRAM.*—Each manufacturer
9 *with an agreement in effect under this section shall*
10 *comply with requirements imposed by the Secretary*
11 *or a third party with a contract under subsection*
12 *(d)(3), as applicable, for purposes of administering*
13 *the program, including any determination under*
14 *clause (i) of subsection (c)(1)(A) or procedures estab-*
15 *lished under such subsection (c)(1)(A).*

16 “(4) *LENGTH OF AGREEMENT.*—

17 “(A) *IN GENERAL.*—An agreement under
18 *this section shall be effective for an initial period*
19 *of not less than 18 months and shall be auto-*
20 *matically renewed for a period of not less than*
21 *1 year unless terminated under subparagraph*
22 *(B).*

23 “(B) *TERMINATION.*—

24 “(i) *BY THE SECRETARY.*—The Sec-
25 *retary may provide for termination of an*

1 *agreement under this section for a knowing*
2 *and willful violation of the requirements of*
3 *the agreement or other good cause shown.*
4 *Such termination shall not be effective ear-*
5 *lier than 30 days after the date of notice to*
6 *the manufacturer of such termination. The*
7 *Secretary shall provide, upon request, a*
8 *manufacturer with a hearing concerning*
9 *such a termination, and such hearing shall*
10 *take place prior to the effective date of the*
11 *termination with sufficient time for such ef-*
12 *fective date to be repealed if the Secretary*
13 *determines appropriate.*

14 “(ii) *BY A MANUFACTURER.—A manu-*
15 *facturer may terminate an agreement under*
16 *this section for any reason. Any such termi-*
17 *nation shall be effective, with respect to a*
18 *plan year—*

19 “(I) *if the termination occurs be-*
20 *fore January 30 of a plan year, as of*
21 *the day after the end of the plan year;*
22 *and*

23 “(II) *if the termination occurs on*
24 *or after January 30 of a plan year, as*

1 of the day after the end of the suc-
2 ceeding plan year.

3 “(iii) *EFFECTIVENESS OF TERMI-*
4 *NATION.*—Any termination under this sub-
5 paragraph shall not affect discounts for ap-
6 plicable drugs of the manufacturer that are
7 due under the agreement before the effective
8 date of its termination.

9 “(iv) *NOTICE TO THIRD PARTY.*—The
10 Secretary shall provide notice of such termi-
11 nation to a third party with a contract
12 under subsection (d)(3) within not less than
13 30 days before the effective date of such ter-
14 mination.

15 “(c) *DUTIES DESCRIBED AND SPECIAL RULE FOR*
16 *SUPPLEMENTAL BENEFITS.*—

17 “(1) *DUTIES DESCRIBED.*—The duties described
18 in this subsection are the following:

19 “(A) *ADMINISTRATION OF PROGRAM.*—Ad-
20 ministering the program, including—

21 “(i) the determination of the amount of
22 the discounted price of an applicable drug
23 of a manufacturer;

24 “(ii) except as provided in clause (iii),
25 the establishment of procedures under which

1 *discounted prices are provided to applicable*
2 *beneficiaries at pharmacies or by mail*
3 *order service at the point-of-sale of an ap-*
4 *plicable drug;*

5 “(iii) *in the case where, during the pe-*
6 *riod beginning on July 1, 2010, and ending*
7 *on December 31, 2011, it is not practicable*
8 *to provide such discounted prices at the*
9 *point-of-sale (as described in clause (ii)),*
10 *the establishment of procedures to provide*
11 *such discounted prices as soon as prac-*
12 *ticable after the point-of-sale;*

13 “(iv) *the establishment of procedures to*
14 *ensure that, not later than the applicable*
15 *number of calendar days after the dis-*
16 *persing of an applicable drug by a phar-*
17 *macy or mail order service, the pharmacy*
18 *or mail order service is reimbursed for an*
19 *amount equal to the difference between—*

20 “(I) *the negotiated price of the ap-*
21 *plicable drug; and*

22 “(II) *the discounted price of the*
23 *applicable drug;*

24 “(v) *the establishment of procedures to*
25 *ensure that the discounted price for an ap-*

1 *plicable drug under this section is applied*
2 *before any coverage or financial assistance*
3 *under other health benefit plans or pro-*
4 *grams that provide coverage or financial as-*
5 *sistance for the purchase or provision of*
6 *prescription drug coverage on behalf of ap-*
7 *plicable beneficiaries as the Secretary may*
8 *specify;*

9 *“(vi) the establishment of procedures to*
10 *implement the special rule for supplemental*
11 *benefits under paragraph (2); and*

12 *“(vii) providing a reasonable dispute*
13 *resolution mechanism to resolve disagree-*
14 *ments between manufacturers, applicable*
15 *beneficiaries, and the third party with a*
16 *contract under subsection (d)(3).*

17 *“(B) MONITORING COMPLIANCE.—*

18 *“(i) IN GENERAL.—The Secretary shall*
19 *monitor compliance by a manufacturer*
20 *with the terms of an agreement under this*
21 *section.*

22 *“(ii) NOTIFICATION.—If a third party*
23 *with a contract under subsection (d)(3) de-*
24 *termines that the manufacturer is not in*
25 *compliance with such agreement, the third*

1 party shall notify the Secretary of such
2 noncompliance for appropriate enforcement
3 under subsection (e).

4 “(C) *COLLECTION OF DATA FROM PRE-*
5 *SCRIPTION DRUG PLANS AND MA–PD PLANS.—*
6 *The Secretary may collect appropriate data from*
7 *prescription drug plans and MA–PD plans in a*
8 *timeframe that allows for discounted prices to be*
9 *provided for applicable drugs under this section.*

10 “(2) *SPECIAL RULE FOR SUPPLEMENTAL BENE-*
11 *FITS.—For plan year 2010 and each subsequent plan*
12 *year, in the case where an applicable beneficiary has*
13 *supplemental benefits with respect to applicable drugs*
14 *under the prescription drug plan or MA–PD plan*
15 *that the applicable beneficiary is enrolled in, the ap-*
16 *plicable beneficiary shall not be provided a discounted*
17 *price for an applicable drug under this section until*
18 *after such supplemental benefits have been applied*
19 *with respect to the applicable drug.*

20 “(d) *ADMINISTRATION.—*

21 “(1) *IN GENERAL.—Subject to paragraph (2), the*
22 *Secretary shall provide for the implementation of this*
23 *section, including the performance of the duties de-*
24 *scribed in subsection (c)(1).*

25 “(2) *LIMITATION.—*

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B), in providing for such implementa-
3 tion, the Secretary shall not receive or distribute
4 any funds of a manufacturer under the program.

5 “(B) *EXCEPTION.*—The limitation under
6 subparagraph (A) shall not apply to the Sec-
7 retary with respect to drugs dispensed during the
8 period beginning on July 1, 2010, and ending on
9 December 31, 2010, but only if the Secretary de-
10 termines that the exception to such limitation
11 under this subparagraph is necessary in order
12 for the Secretary to begin implementation of this
13 section and provide applicable beneficiaries time-
14 ly access to discounted prices during such period.

15 “(3) *CONTRACT WITH THIRD PARTIES.*—The Sec-
16 retary shall enter into a contract with 1 or more
17 third parties to administer the requirements estab-
18 lished by the Secretary in order to carry out this sec-
19 tion. At a minimum, the contract with a third party
20 under the preceding sentence shall require that the
21 third party—

22 “(A) receive and transmit information be-
23 tween the Secretary, manufacturers, and other
24 individuals or entities the Secretary determines
25 appropriate;

1 “(B) receive, distribute, or facilitate the dis-
2 tribution of funds of manufacturers to appro-
3 priate individuals or entities in order to meet
4 the obligations of manufacturers under agree-
5 ments under this section;

6 “(C) provide adequate and timely informa-
7 tion to manufacturers, consistent with the agree-
8 ment with the manufacturer under this section,
9 as necessary for the manufacturer to fulfill its
10 obligations under this section; and

11 “(D) permit manufacturers to conduct peri-
12 odic audits, directly or through contracts, of the
13 data and information used by the third party to
14 determine discounts for applicable drugs of the
15 manufacturer under the program.

16 “(4) *PERFORMANCE REQUIREMENTS.*—The Sec-
17 retary shall establish performance requirements for a
18 third party with a contract under paragraph (3) and
19 safeguards to protect the independence and integrity
20 of the activities carried out by the third party under
21 the program under this section.

22 “(5) *IMPLEMENTATION.*—The Secretary may im-
23 plement the program under this section by program
24 instruction or otherwise.

1 “(6) *ADMINISTRATION.*—Chapter 35 of title 44,
2 *United States Code*, shall not apply to the program
3 *under this section.*

4 “(e) *ENFORCEMENT.*—

5 “(1) *AUDITS.*—Each manufacturer with an
6 *agreement in effect under this section shall be subject*
7 *to periodic audit by the Secretary.*

8 “(2) *CIVIL MONEY PENALTY.*—

9 “(A) *IN GENERAL.*—The Secretary shall im-
10 *pose a civil money penalty on a manufacturer*
11 *that fails to provide applicable beneficiaries dis-*
12 *counts for applicable drugs of the manufacturer*
13 *in accordance with such agreement for each such*
14 *failure in an amount the Secretary determines is*
15 *commensurate with the sum of—*

16 “(i) *the amount that the manufacturer*
17 *would have paid with respect to such dis-*
18 *counts under the agreement, which will then*
19 *be used to pay the discounts which the man-*
20 *ufacturer had failed to provide; and*

21 “(ii) *25 percent of such amount.*

22 “(B) *APPLICATION.*—The provisions of sec-
23 *tion 1128A (other than subsections (a) and (b))*
24 *shall apply to a civil money penalty under this*
25 *paragraph in the same manner as such provi-*

1 sions apply to a penalty or proceeding under
2 section 1128A(a).

3 “(f) *CLARIFICATION REGARDING AVAILABILITY OF*
4 *OTHER COVERED PART D DRUGS.—Nothing in this section*
5 *shall prevent an applicable beneficiary from purchasing a*
6 *covered part D drug that is not an applicable drug (includ-*
7 *ing a generic drug or a drug that is not on the formulary*
8 *of the prescription drug plan or MA–PD plan that the ap-*
9 *plicable beneficiary is enrolled in).*

10 “(g) *DEFINITIONS.—In this section:*

11 “(1) *APPLICABLE BENEFICIARY.—The term ‘ap-*
12 *plicable beneficiary’ means an individual who, on the*
13 *date of dispensing an applicable drug—*

14 “(A) *is enrolled in a prescription drug plan*
15 *or an MA–PD plan;*

16 “(B) *is not enrolled in a qualified retiree*
17 *prescription drug plan;*

18 “(C) *is not entitled to an income-related*
19 *subsidy under section 1860D–14(a);*

20 “(D) *is not subject to a reduction in pre-*
21 *mium subsidy under section 1839(i); and*

22 “(E) *who—*

23 “(i) *has reached or exceeded the initial*
24 *coverage limit under section 1860D–2(b)(3)*
25 *during the year; and*

1 “(ii) *has not incurred costs for covered*
2 *part D drugs in the year equal to the an-*
3 *nuual out-of-pocket threshold specified in sec-*
4 *tion 1860D–2(b)(4)(B).*

5 “(2) *APPLICABLE DRUG.—The term ‘applicable*
6 *drug’ means, with respect to an applicable bene-*
7 *ficiary, a covered part D drug—*

8 “(A) *approved under a new drug applica-*
9 *tion under section 505(b) of the Federal Food,*
10 *Drug, and Cosmetic Act or, in the case of a bio-*
11 *logic product, licensed under section 351 of the*
12 *Public Health Service Act (other than a product*
13 *licensed under subsection (k) of such section*
14 *351); and*

15 “(B)(i) *if the PDP sponsor of the prescrip-*
16 *tion drug plan or the MA organization offering*
17 *the MA–PD plan uses a formulary, which is on*
18 *the formulary of the prescription drug plan or*
19 *MA–PD plan that the applicable beneficiary is*
20 *enrolled in;*

21 “(ii) *if the PDP sponsor of the prescription*
22 *drug plan or the MA organization offering the*
23 *MA–PD plan does not use a formulary, for*
24 *which benefits are available under the prescrip-*

1 *tion drug plan or MA–PD plan that the applica-*
2 *ble beneficiary is enrolled in; or*

3 *“(iii) is provided through an exception or*
4 *appeal.*

5 *“(3) APPLICABLE NUMBER OF CALENDAR*
6 *DAYS.—The term ‘applicable number of calendar*
7 *days’ means—*

8 *“(A) with respect to claims for reimburse-*
9 *ment submitted electronically, 14 days; and*

10 *“(B) with respect to claims for reimburse-*
11 *ment submitted otherwise, 30 days.*

12 *“(4) DISCOUNTED PRICE.—*

13 *“(A) IN GENERAL.—The term ‘discounted*
14 *price’ means 50 percent of the negotiated price*
15 *of the applicable drug of a manufacturer.*

16 *“(B) CLARIFICATION.—Nothing in this sec-*
17 *tion shall be construed as affecting the responsi-*
18 *bility of an applicable beneficiary for payment*
19 *of a dispensing fee for an applicable drug.*

20 *“(C) SPECIAL CASE FOR CERTAIN*
21 *CLAIMS.—In the case where the entire amount of*
22 *the negotiated price of an individual claim for*
23 *an applicable drug with respect to an applicable*
24 *beneficiary does not fall at or above the initial*
25 *coverage limit under section 1860D–2(b)(3) and*

1 *below the annual out-of-pocket threshold specified*
2 *in section 1860D-2(b)(4)(B) for the year, the*
3 *manufacturer of the applicable drug shall pro-*
4 *vide the discounted price under this section on*
5 *only the portion of the negotiated price of the ap-*
6 *licable drug that falls at or above such initial*
7 *coverage limit and below such annual out-of-*
8 *pocket threshold.*

9 “(5) *MANUFACTURER.*—*The term ‘manufacturer’*
10 *means any entity which is engaged in the production,*
11 *preparation, propagation, compounding, conversion,*
12 *or processing of prescription drug products, either di-*
13 *rectly or indirectly by extraction from substances of*
14 *natural origin, or independently by means of chem-*
15 *ical synthesis, or by a combination of extraction and*
16 *chemical synthesis. Such term does not include a*
17 *wholesale distributor of drugs or a retail pharmacy li-*
18 *censed under State law.*

19 “(6) *NEGOTIATED PRICE.*—*The term ‘negotiated*
20 *price’ has the meaning given such term in section*
21 *423.100 of title 42, Code of Federal Regulations (as*
22 *in effect on the date of enactment of this section), ex-*
23 *cept that such negotiated price shall not include any*
24 *dispensing fee for the applicable drug.*

1 “(7) *QUALIFIED RETIREE PRESCRIPTION DRUG*
2 *PLAN.*—*The term ‘qualified retiree prescription drug*
3 *plan’ has the meaning given such term in section*
4 *1860D–22(a)(2).’.*”

5 *(c) INCLUSION IN INCURRED COSTS.*—

6 (1) *IN GENERAL.*—*Section 1860D–2(b)(4) of the*
7 *Social Security Act (42 U.S.C. 1395w–102(b)(4)) is*
8 *amended—*

9 (A) *in subparagraph (C), in the matter pre-*
10 *ceding clause (i), by striking “In applying” and*
11 *inserting “Except as provided in subparagraph*
12 *(E), in applying”; and*

13 (B) *by adding at the end the following new*
14 *subparagraph:*

15 “(E) *INCLUSION OF COSTS OF APPLICABLE*
16 *DRUGS UNDER MEDICARE COVERAGE GAP DIS-*
17 *COUNT PROGRAM.*—*In applying subparagraph*
18 *(A), incurred costs shall include the negotiated*
19 *price (as defined in paragraph (6) of section*
20 *1860D–14A(g)) of an applicable drug (as defined*
21 *in paragraph (2) of such section) of a manufac-*
22 *turer that is furnished to an applicable bene-*
23 *ficiary (as defined in paragraph (1) of such sec-*
24 *tion) under the Medicare coverage gap discount*
25 *program under section 1860D–14A, regardless of*

1 *whether part of such costs were paid by a manu-*
2 *facturer under such program.”.*

3 (2) *EFFECTIVE DATE.*—*The amendments made*
4 *by this subsection shall apply to costs incurred on or*
5 *after July 1, 2010.*

6 (d) *CONFORMING AMENDMENT PERMITTING PRE-*
7 *SCRIPTION DRUG DISCOUNTS.*—

8 (1) *IN GENERAL.*—*Section 1128B(b)(3) of the*
9 *Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is*
10 *amended—*

11 (A) *by striking “and” at the end of sub-*
12 *paragraph (G);*

13 (B) *in the subparagraph (H) added by sec-*
14 *tion 237(d) of the Medicare Prescription Drug,*
15 *Improvement, and Modernization Act of 2003*
16 *(Public Law 108–173; 117 Stat. 2213)—*

17 (i) *by moving such subparagraph 2*
18 *ems to the left; and*

19 (ii) *by striking the period at the end*
20 *and inserting a semicolon;*

21 (C) *in the subparagraph (H) added by sec-*
22 *tion 431(a) of such Act (117 Stat. 2287)—*

23 (i) *by redesignating such subparagraph*
24 *as subparagraph (I);*

1 (ii) by moving such subparagraph 2
2 ems to the left; and

3 (iii) by striking the period at the end
4 and inserting “; and”; and

5 (D) by adding at the end the following new
6 subparagraph:

7 “(J) a discount in the price of an applica-
8 ble drug (as defined in paragraph (2) of section
9 1860D–14A(g)) of a manufacturer that is fur-
10 nished to an applicable beneficiary (as defined
11 in paragraph (1) of such section) under the
12 Medicare coverage gap discount program under
13 section 1860D–14A.”.

14 (2) *CONFORMING AMENDMENT TO DEFINITION OF*
15 *BEST PRICE UNDER MEDICAID.*—Section
16 1927(c)(1)(C)(i)(VI) of the Social Security Act (42
17 U.S.C. 1396r–8(c)(1)(C)(i)(VI)) is amended by insert-
18 ing “, or any discounts provided by manufacturers
19 under the Medicare coverage gap discount program
20 under section 1860D–14A” before the period at the
21 end.

22 (3) *EFFECTIVE DATE.*—The amendments made
23 by this subsection shall apply to drugs dispensed on
24 or after July 1, 2010.

1 **SEC. 3302. IMPROVEMENT IN DETERMINATION OF MEDI-**
2 **CARE PART D LOW-INCOME BENCHMARK PRE-**
3 **MIUM.**

4 (a) *IN GENERAL.*—Section 1860D–14(b)(2)(B)(iii) of
5 the Social Security Act (42 U.S.C. 1395w–
6 114(b)(2)(B)(iii)) is amended by inserting “, determined
7 without regard to any reduction in such premium as a re-
8 sult of any beneficiary rebate under section 1854(b)(1)(C)
9 or bonus payment under section 1853(n)” before the period
10 at the end.

11 (b) *EFFECTIVE DATE.*—The amendment made by sub-
12 section (a) shall apply to premiums for months beginning
13 on or after January 1, 2011.

14 **SEC. 3303. VOLUNTARY DE MINIMIS POLICY FOR SUBSIDY**
15 **ELIGIBLE INDIVIDUALS UNDER PRESCRIP-**
16 **TION DRUG PLANS AND MA-PD PLANS.**

17 (a) *IN GENERAL.*—Section 1860D–14(a) of the Social
18 Security Act (42 U.S.C. 1395w–114(a)) is amended by add-
19 ing at the end the following new paragraph:

20 “(5) *WAIVER OF DE MINIMIS PREMIUMS.*—The
21 Secretary shall, under procedures established by the
22 Secretary, permit a prescription drug plan or an
23 MA–PD plan to waive the monthly beneficiary pre-
24 mium for a subsidy eligible individual if the amount
25 of such premium is de minimis. If such premium is
26 waived under the plan, the Secretary shall not reas-

1 *sign subsidy eligible individuals enrolled in the plan*
2 *to other plans based on the fact that the monthly ben-*
3 *eficiary premium under the plan was greater than the*
4 *low-income benchmark premium amount.”.*

5 ***(b) AUTHORIZING THE SECRETARY TO AUTO-ENROLL***
6 ***SUBSIDY ELIGIBLE INDIVIDUALS IN PLANS THAT WAIVE***
7 ***DE MINIMIS PREMIUMS.—Section 1860D–1(b)(1) of the So-***
8 ***cial Security Act (42 U.S.C. 1395w–101(b)(1)) is amend-***
9 ***ed—***

10 *(1) in subparagraph (C), by inserting “except as*
11 *provided in subparagraph (D),” after “shall include,”*

12 *(2) by adding at the end the following new sub-*
13 *paragraph:*

14 ***“(D) SPECIAL RULE FOR PLANS THAT***
15 ***WAIVE DE MINIMIS PREMIUMS.—The process es-***
16 ***tablished under subparagraph (A) may include,***
17 ***in the case of a part D eligible individual who***
18 ***is a subsidy eligible individual (as defined in***
19 ***section 1860D–14(a)(3)) who has failed to enroll***
20 ***in a prescription drug plan or an MA–PD plan,***
21 ***for the enrollment in a prescription drug plan or***
22 ***MA–PD plan that has waived the monthly bene-***
23 ***ficiary premium for such subsidy eligible indi-***
24 ***vidual under section 1860D–14(a)(5). If there is***
25 ***more than one such plan available, the Secretary***

1 “(2) a description of the individual’s right to re-
 2 quest a coverage determination, exception, or recon-
 3 sideration under section 1860D–4(g), bring an appeal
 4 under section 1860D–4(h), or resolve a grievance
 5 under section 1860D–4(f).”.

6 **SEC. 3306. FUNDING OUTREACH AND ASSISTANCE FOR**
 7 **LOW-INCOME PROGRAMS.**

8 (a) *ADDITIONAL FUNDING FOR STATE HEALTH INSUR-*
 9 *ANCE PROGRAMS.*—Subsection (a)(1)(B) of section 119 of
 10 *the Medicare Improvements for Patients and Providers Act*
 11 *of 2008 (42 U.S.C. 1395b–3 note) is amended by striking*
 12 *“(42 U.S.C. 1395w–23(f))” and all that follows through the*
 13 *period at the end and inserting “(42 U.S.C. 1395w–23(f)),*
 14 *to the Centers for Medicare & Medicaid Services Program*
 15 *Management Account—*

16 “(i) for fiscal year 2009, of \$7,500,000;

17 and

18 “(ii) for the period of fiscal years 2010
 19 through 2012, of \$15,000,000.

20 *Amounts appropriated under this subparagraph*
 21 *shall remain available until expended.”.*

22 (b) *ADDITIONAL FUNDING FOR AREA AGENCIES ON*
 23 *AGING.*—Subsection (b)(1)(B) of such section 119 is amend-
 24 *ed by striking “(42 U.S.C. 1395w–23(f))” and all that fol-*

1 lows through the period at the end and inserting “(42
2 U.S.C. 1395w–23(f)), to the Administration on Aging—

3 “(i) for fiscal year 2009, of \$7,500,000;

4 and

5 “(ii) for the period of fiscal years 2010
6 through 2012, of \$15,000,000.

7 Amounts appropriated under this subparagraph
8 shall remain available until expended.”.

9 (c) *ADDITIONAL FUNDING FOR AGING AND DISABILITY*
10 *RESOURCE CENTERS.*—Subsection (c)(1)(B) of such section
11 119 is amended by striking “(42 U.S.C. 1395w–23(f))” and
12 all that follows through the period at the end and inserting
13 “(42 U.S.C. 1395w–23(f)), to the Administration on
14 Aging—

15 “(i) for fiscal year 2009, of \$5,000,000;

16 and

17 “(ii) for the period of fiscal years 2010
18 through 2012, of \$10,000,000.

19 Amounts appropriated under this subparagraph
20 shall remain available until expended.”.

21 (d) *ADDITIONAL FUNDING FOR CONTRACT WITH THE*
22 *NATIONAL CENTER FOR BENEFITS AND OUTREACH EN-*
23 *ROLLMENT.*—Subsection (d)(2) of such section 119 is
24 amended by striking “(42 U.S.C. 1395w–23(f))” and all
25 that follows through the period at the end and inserting

1 “(42 U.S.C. 1395w–23(f)), to the Administration on
2 Aging—

3 “(i) for fiscal year 2009, of \$5,000,000;

4 and

5 “(ii) for the period of fiscal years 2010
6 through 2012, of \$5,000,000.

7 Amounts appropriated under this subparagraph
8 shall remain available until expended.”.

9 (e) SECRETARIAL AUTHORITY TO ENLIST SUPPORT IN
10 CONDUCTING CERTAIN OUTREACH ACTIVITIES.—Such sec-
11 tion 119 is amended by adding at the end the following
12 new subsection:

13 “(g) SECRETARIAL AUTHORITY TO ENLIST SUPPORT
14 IN CONDUCTING CERTAIN OUTREACH ACTIVITIES.—The
15 Secretary may request that an entity awarded a grant
16 under this section support the conduct of outreach activities
17 aimed at preventing disease and promoting wellness. Not-
18 withstanding any other provision of this section, an entity
19 may use a grant awarded under this subsection to support
20 the conduct of activities described in the preceding sen-
21 tence.”.

1 **SEC. 3307. IMPROVING FORMULARY REQUIREMENTS FOR**
2 **PRESCRIPTION DRUG PLANS AND MA-PD**
3 **PLANS WITH RESPECT TO CERTAIN CAT-**
4 **EGORIES OR CLASSES OF DRUGS.**

5 (a) *IMPROVING FORMULARY REQUIREMENTS.*—*Sec-*
6 *tion 1860D–4(b)(3)(G) of the Social Security Act is amend-*
7 *ed to read as follows:*

8 “(G) *REQUIRED INCLUSION OF DRUGS IN*
9 *CERTAIN CATEGORIES AND CLASSES.*—

10 “(i) *FORMULARY REQUIREMENTS.*—

11 “(I) *IN GENERAL.*—*Subject to*
12 *subclause (II), a PDP sponsor offering*
13 *a prescription drug plan shall be re-*
14 *quired to include all covered part D*
15 *drugs in the categories and classes*
16 *identified by the Secretary under*
17 *clause (ii)(I).*

18 “(II) *EXCEPTIONS.*—*The Sec-*
19 *retary may establish exceptions that*
20 *permit a PDP sponsor offering a pre-*
21 *scription drug plan to exclude from its*
22 *formulary a particular covered part D*
23 *drug in a category or class that is oth-*
24 *erwise required to be included in the*
25 *formulary under subclause (I) (or to*
26 *otherwise limit access to such a drug,*

1 *including through prior authorization*
2 *or utilization management).*

3 “(ii) *IDENTIFICATION OF DRUGS IN*
4 *CERTAIN CATEGORIES AND CLASSES.—*

5 “(I) *IN GENERAL.—Subject to*
6 *clause (iv), the Secretary shall identify,*
7 *as appropriate, categories and classes*
8 *of drugs for which the Secretary deter-*
9 *mines are of clinical concern.*

10 “(II) *CRITERIA.—The Secretary*
11 *shall use criteria established by the*
12 *Secretary in making any determina-*
13 *tion under subclause (I).*

14 “(iii) *IMPLEMENTATION.—The Sec-*
15 *retary shall establish the criteria under*
16 *clause (i)(II) and any exceptions under*
17 *clause (i)(II) through the promulgation of a*
18 *regulation which includes a public notice*
19 *and comment period.*

20 “(iv) *REQUIREMENT FOR CERTAIN*
21 *CATEGORIES AND CLASSES UNTIL CRITERIA*
22 *ESTABLISHED.—Until such time as the Sec-*
23 *retary establishes the criteria under clause*
24 *(i)(II) the following categories and classes*

1 of drugs shall be identified under clause
2 (ii)(I):

3 “(I) Anticonvulsants.

4 “(II) Antidepressants.

5 “(III) Antineoplastics.

6 “(IV) Antipsychotics.

7 “(V) Antiretrovirals.

8 “(VI) Immunosuppressants for the
9 treatment of transplant rejection.”.

10 (b) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to plan year 2011 and subsequent plan
12 years.

13 **SEC. 3308. REDUCING PART D PREMIUM SUBSIDY FOR**
14 **HIGH-INCOME BENEFICIARIES.**

15 (a) *INCOME-RELATED INCREASE IN PART D PRE-*
16 *MIUM.*—

17 (1) *IN GENERAL.*—Section 1860D–13(a) of the
18 *Social Security Act* (42 U.S.C. 1395w–113(a)) is
19 amended by adding at the end the following new
20 paragraph:

21 “(7) *INCREASE IN BASE BENEFICIARY PREMIUM*
22 *BASED ON INCOME.*—

23 “(A) *IN GENERAL.*—In the case of an indi-
24 vidual whose modified adjusted gross income ex-
25 ceeds the threshold amount applicable under

1 *paragraph (2) of section 1839(i) (including ap-*
2 *plication of paragraph (5) of such section) for*
3 *the calendar year, the monthly amount of the*
4 *beneficiary premium applicable under this sec-*
5 *tion for a month after December 2010 shall be*
6 *increased by the monthly adjustment amount*
7 *specified in subparagraph (B).*

8 *“(B) MONTHLY ADJUSTMENT AMOUNT.—*
9 *The monthly adjustment amount specified in this*
10 *subparagraph for an individual for a month in*
11 *a year is equal to the product of—*

12 *“(i) the quotient obtained by divid-*
13 *ing—*

14 *“(I) the applicable percentage de-*
15 *termined under paragraph (3)(C) of*
16 *section 1839(i) (including application*
17 *of paragraph (5) of such section) for*
18 *the individual for the calendar year re-*
19 *duced by 25.5 percent; by*

20 *“(II) 25.5 percent; and*

21 *“(ii) the base beneficiary premium (as*
22 *computed under paragraph (2)).*

23 *“(C) MODIFIED ADJUSTED GROSS IN-*
24 *COME.—For purposes of this paragraph, the*
25 *term ‘modified adjusted gross income’ has the*

1 *meaning given such term in subparagraph (A) of*
2 *section 1839(i)(4), determined for the taxable*
3 *year applicable under subparagraphs (B) and*
4 *(C) of such section.*

5 “(D) *DETERMINATION BY COMMISSIONER OF*
6 *SOCIAL SECURITY.—The Commissioner of Social*
7 *Security shall make any determination necessary*
8 *to carry out the income-related increase in the*
9 *base beneficiary premium under this paragraph.*

10 “(E) *PROCEDURES TO ASSURE CORRECT IN-*
11 *COME-RELATED INCREASE IN BASE BENEFICIARY*
12 *PREMIUM.—*

13 “(i) *DISCLOSURE OF BASE BENE-*
14 *FICIARY PREMIUM.—Not later than Sep-*
15 *tember 15 of each year beginning with*
16 *2010, the Secretary shall disclose to the*
17 *Commissioner of Social Security the*
18 *amount of the base beneficiary premium (as*
19 *computed under paragraph (2)) for the pur-*
20 *pose of carrying out the income-related in-*
21 *crease in the base beneficiary premium*
22 *under this paragraph with respect to the*
23 *following year.*

24 “(ii) *ADDITIONAL DISCLOSURE.—Not*
25 *later than October 15 of each year begin-*

1 *ning with 2010, the Secretary shall disclose*
2 *to the Commissioner of Social Security the*
3 *following information for the purpose of*
4 *carrying out the income-related increase in*
5 *the base beneficiary premium under this*
6 *paragraph with respect to the following*
7 *year:*

8 *“(I) The modified adjusted gross*
9 *income threshold applicable under*
10 *paragraph (2) of section 1839(i) (in-*
11 *cluding application of paragraph (5)*
12 *of such section).*

13 *“(II) The applicable percentage*
14 *determined under paragraph (3)(C) of*
15 *section 1839(i) (including application*
16 *of paragraph (5) of such section).*

17 *“(III) The monthly adjustment*
18 *amount specified in subparagraph (B).*

19 *“(IV) Any other information the*
20 *Commissioner of Social Security deter-*
21 *mines necessary to carry out the in-*
22 *come-related increase in the base bene-*
23 *ficiary premium under this paragraph.*

24 *“(F) RULE OF CONSTRUCTION.—The for-*
25 *mula used to determine the monthly adjustment*

1 *amount specified under subparagraph (B) shall*
2 *only be used for the purpose of determining such*
3 *monthly adjustment amount under such sub-*
4 *paragraph.”.*

5 (2) *COLLECTION OF MONTHLY ADJUSTMENT*
6 *AMOUNT.—Section 1860D–13(c) of the Social Secu-*
7 *urity Act (42 U.S.C. 1395w–113(c)) is amended—*

8 (A) *in paragraph (1), by striking “(2) and*
9 (3)” and inserting “(2), (3), and (4)”;

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

12 “(4) *COLLECTION OF MONTHLY ADJUSTMENT*
13 *AMOUNT.—*

14 “(A) *IN GENERAL.—Notwithstanding any*
15 *provision of this subsection or section 1854(d)(2),*
16 *subject to subparagraph (B), the amount of the*
17 *income-related increase in the base beneficiary*
18 *premium for an individual for a month (as de-*
19 *termined under subsection (a)(7)) shall be paid*
20 *through withholding from benefit payments in*
21 *the manner provided under section 1840.*

22 “(B) *AGREEMENTS.—In the case where the*
23 *monthly benefit payments of an individual that*
24 *are withheld under subparagraph (A) are insuf-*
25 *ficient to pay the amount described in such sub-*

1 *paragraph, the Commissioner of Social Security*
2 *shall enter into agreements with the Secretary,*
3 *the Director of the Office of Personnel Manage-*
4 *ment, and the Railroad Retirement Board as*
5 *necessary in order to allow other agencies to col-*
6 *lect the amount described in subparagraph (A)*
7 *that was not withheld under such subpara-*
8 *graph.”.*

9 **(b) CONFORMING AMENDMENTS.—**

10 **(1) MEDICARE.—***Section 1860D–13(a)(1) of the*
11 *Social Security Act (42 U.S.C. 1395w–113(a)(1)) is*
12 *amended—*

13 **(A)** *by redesignating subparagraph (F) as*
14 *subparagraph (G);*

15 **(B)** *in subparagraph (G), as redesignated*
16 *by subparagraph (A), by striking “(D) and (E)”*
17 *and inserting “(D), (E), and (F)”;* and

18 **(C)** *by inserting after subparagraph (E) the*
19 *following new subparagraph:*

20 **“(F) INCREASE BASED ON INCOME.—***The*
21 *monthly beneficiary premium shall be increased*
22 *pursuant to paragraph (7).”.*

23 **(2) INTERNAL REVENUE CODE.—***Section*
24 *6103(l)(20) of the Internal Revenue Code of 1986 (re-*
25 *lating to disclosure of return information to carry out*

1 Medicare part B premium subsidy adjustment) is
2 amended—

3 (A) in the heading, by inserting “AND PART
4 D BASE BENEFICIARY PREMIUM INCREASE” after
5 “PART B PREMIUM SUBSIDY ADJUSTMENT”;

6 (B) in subparagraph (A)—

7 (i) in the matter preceding clause (i),
8 by inserting “or increase under section
9 1860D–13(a)(7)” after “1839(i)”; and

10 (ii) in clause (vii), by inserting after
11 “subsection (i) of such section” the fol-
12 lowing: “or increase under section 1860D–
13 13(a)(7) of such Act”; and

14 (C) in subparagraph (B)—

15 (i) by striking “Return information”
16 and inserting the following:

17 “(i) IN GENERAL.—Return informa-
18 tion”;

19 (ii) by inserting “or increase under
20 such section 1860D–13(a)(7)” before the pe-
21 riod at the end;

22 (iii) as amended by clause (i), by in-
23 serting “or for the purpose of resolving tax-
24 payer appeals with respect to any such pre-

1 *mium adjustment or increase” before the pe-*
2 *riod at the end; and*

3 *(iv) by adding at the end the following*
4 *new clause:*

5 *“(i) DISCLOSURE TO OTHER AGEN-*
6 *CIES.—Officers, employees, and contractors*
7 *of the Social Security Administration may*
8 *disclose—*

9 *“(I) the taxpayer identity infor-*
10 *mation and the amount of the pre-*
11 *mium subsidy adjustment or premium*
12 *increase with respect to a taxpayer de-*
13 *scribed in subparagraph (A) to officers,*
14 *employees, and contractors of the Cen-*
15 *ters for Medicare and Medicaid Serv-*
16 *ices, to the extent that such disclosure*
17 *is necessary for the collection of the*
18 *premium subsidy amount or the in-*
19 *creased premium amount,*

20 *“(II) the taxpayer identity infor-*
21 *mation and the amount of the pre-*
22 *mium subsidy adjustment or the in-*
23 *creased premium amount with respect*
24 *to a taxpayer described in subpara-*
25 *graph (A) to officers and employees of*

1 *the Office of Personnel Management*
2 *and the Railroad Retirement Board, to*
3 *the extent that such disclosure is nec-*
4 *essary for the collection of the premium*
5 *subsidy amount or the increased pre-*
6 *mium amount,*

7 *“(III) return information with re-*
8 *spect to a taxpayer described in sub-*
9 *paragraph (A) to officers and employ-*
10 *ees of the Department of Health and*
11 *Human Services to the extent nec-*
12 *essary to resolve administrative ap-*
13 *peals of such premium subsidy adjust-*
14 *ment or increased premium, and*

15 *“(IV) return information with re-*
16 *spect to a taxpayer described in sub-*
17 *paragraph (A) to officers and employ-*
18 *ees of the Department of Justice for use*
19 *in judicial proceedings to the extent*
20 *necessary to carry out the purposes de-*
21 *scribed in clause (i).”.*

22 **SEC. 3309. ELIMINATION OF COST SHARING FOR CERTAIN**
23 **DUAL ELIGIBLE INDIVIDUALS.**

24 *Section 1860D–14(a)(1)(D)(i) of the Social Security*
25 *Act (42 U.S.C. 1395w–114(a)(1)(D)(i)) is amended by in-*

1 *serting “or, effective on a date specified by the Secretary*
2 *(but in no case earlier than January 1, 2012), who would*
3 *be such an institutionalized individual or couple, if the full-*
4 *benefit dual eligible individual were not receiving services*
5 *under a home and community-based waiver authorized for*
6 *a State under section 1115 or subsection (c) or (d) of section*
7 *1915 or under a State plan amendment under subsection*
8 *(i) of such section or services provided through enrollment*
9 *in a medicaid managed care organization with a contract*
10 *under section 1903(m) or under section 1932” after*
11 *“1902(q)(1)(B)”.*

12 **SEC. 3310. REDUCING WASTEFUL DISPENSING OF OUT-**
13 **PATIENT PRESCRIPTION DRUGS IN LONG-**
14 **TERM CARE FACILITIES UNDER PRESCRIP-**
15 **TION DRUG PLANS AND MA-PD PLANS.**

16 *(a) IN GENERAL.—Section 1860D–4(c) of the Social*
17 *Security Act (42 U.S.C. 1395w–104(c)) is amended by add-*
18 *ing at the end the following new paragraph:*

19 *“(3) REDUCING WASTEFUL DISPENSING OF OUT-*
20 *PATIENT PRESCRIPTION DRUGS IN LONG-TERM CARE*
21 *FACILITIES.—The Secretary shall require PDP spon-*
22 *sors of prescription drug plans to utilize specific, uni-*
23 *form dispensing techniques, as determined by the Sec-*
24 *retary, in consultation with relevant stakeholders (in-*
25 *cluding representatives of nursing facilities, residents*

1 of nursing facilities, pharmacists, the pharmacy in-
2 dustry (including retail and long-term care phar-
3 macy), prescription drug plans, MA-PD plans, and
4 any other stakeholders the Secretary determines ap-
5 propriate), such as weekly, daily, or automated dose
6 dispensing, when dispensing covered part D drugs to
7 enrollees who reside in a long-term care facility in
8 order to reduce waste associated with 30-day fills.”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-
10 section (a) shall apply to plan years beginning on or after
11 January 1, 2012.

12 **SEC. 3311. IMPROVED MEDICARE PRESCRIPTION DRUG**
13 **PLAN AND MA-PD PLAN COMPLAINT SYSTEM.**

14 (a) *IN GENERAL.*—The Secretary shall develop and
15 maintain a complaint system, that is widely known and
16 easy to use, to collect and maintain information on MA-
17 PD plan and prescription drug plan complaints that are
18 received (including by telephone, letter, e-mail, or any other
19 means) by the Secretary (including by a regional office of
20 the Department of Health and Human Services, the Medi-
21 care Beneficiary Ombudsman, a subcontractor, a carrier,
22 a fiscal intermediary, and a Medicare administrative con-
23 tractor under section 1874A of the Social Security Act (42
24 U.S.C. 1395kk)) through the date on which the complaint
25 is resolved. The system shall be able to report and initiate

1 *appropriate interventions and monitoring based on sub-*
2 *stantial complaints and to guide quality improvement.*

3 (b) *MODEL ELECTRONIC COMPLAINT FORM.*—The Sec-
4 *retary shall develop a model electronic complaint form to*
5 *be used for reporting plan complaints under the system.*
6 *Such form shall be prominently displayed on the front page*
7 *of the Medicare.gov Internet website and on the Internet*
8 *website of the Medicare Beneficiary Ombudsman.*

9 (c) *ANNUAL REPORTS BY THE SECRETARY.*—The Sec-
10 *retary shall submit to Congress annual reports on the sys-*
11 *tem. Such reports shall include an analysis of the number*
12 *and types of complaints reported in the system, geographic*
13 *variations in such complaints, the timeliness of agency or*
14 *plan responses to such complaints, and the resolution of*
15 *such complaints.*

16 (d) *DEFINITIONS.*—*In this section:*

17 (1) *MA-PD PLAN.*—The term “MA-PD plan”
18 *has the meaning given such term in section 1860D-*
19 *41(a)(9) of such Act (42 U.S.C. 1395w-151(a)(9)).*

20 (2) *PRESCRIPTION DRUG PLAN.*—The term “pre-
21 *scription drug plan” has the meaning given such*
22 *term in section 1860D-41(a)(14) of such Act (42*
23 *U.S.C. 1395w-151(a)(14)).*

24 (3) *SECRETARY.*—The term “Secretary” means
25 *the Secretary of Health and Human Services.*

1 (4) *SYSTEM.*—*The term “system” means the*
2 *plan complaint system developed and maintained*
3 *under subsection (a).*

4 **SEC. 3312. UNIFORM EXCEPTIONS AND APPEALS PROCESS**
5 **FOR PRESCRIPTION DRUG PLANS AND MA-PD**
6 **PLANS.**

7 (a) *IN GENERAL.*—*Section 1860D–4(b)(3) of the So-*
8 *cial Security Act (42 U.S.C. 1395w–104(b)(3)) is amended*
9 *by adding at the end the following new subparagraph:*

10 “(H) *USE OF SINGLE, UNIFORM EXCEP-*
11 *TIONS AND APPEALS PROCESS.*—*Notwithstanding*
12 *any other provision of this part, each PDP spon-*
13 *sor of a prescription drug plan shall—*

14 “(i) *use a single, uniform exceptions*
15 *and appeals process (including, to the ex-*
16 *tent the Secretary determines feasible, a sin-*
17 *gle, uniform model form for use under such*
18 *process) with respect to the determination of*
19 *prescription drug coverage for an enrollee*
20 *under the plan; and*

21 “(ii) *provide instant access to such*
22 *process by enrollees through a toll-free tele-*
23 *phone number and an Internet website.”.*

1 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
2 *section (a) shall apply to exceptions and appeals on or after*
3 *January 1, 2012.*

4 **SEC. 3313. OFFICE OF THE INSPECTOR GENERAL STUDIES**
5 **AND REPORTS.**

6 **(a) STUDY AND ANNUAL REPORT ON PART D**
7 **FORMULARIES' INCLUSION OF DRUGS COMMONLY USED BY**
8 **DUAL ELIGIBLES.**—

9 **(1) STUDY.**—*The Inspector General of the De-*
10 *partment of Health and Human Services shall con-*
11 *duct a study of the extent to which formularies used*
12 *by prescription drug plans and MA–PD plans under*
13 *part D include drugs commonly used by full-benefit*
14 *dual eligible individuals (as defined in section*
15 *1935(c)(6) of the Social Security Act (42 U.S.C.*
16 *1396u–5(c)(6))).*

17 **(2) ANNUAL REPORTS.**—*Not later than July 1 of*
18 *each year (beginning with 2011), the Inspector Gen-*
19 *eral shall submit to Congress a report on the study*
20 *conducted under paragraph (1), together with such*
21 *recommendations as the Inspector General determines*
22 *appropriate.*

23 **(b) STUDY AND REPORT ON PRESCRIPTION DRUG**
24 **PRICES UNDER MEDICARE PART D AND MEDICAID.**—

25 **(1) STUDY.**—

1 (A) *IN GENERAL.*—*The Inspector General of*
2 *the Department of Health and Human Services*
3 *shall conduct a study on prices for covered part*
4 *D drugs under the Medicare prescription drug*
5 *program under part D of title XVIII of the So-*
6 *cial Security Act and for covered outpatient*
7 *drugs under title XIX. Such study shall include*
8 *the following:*

9 (i) *A comparison, with respect to the*
10 *200 most frequently dispensed covered part*
11 *D drugs under such program and covered*
12 *outpatient drugs under such title (as deter-*
13 *mined by the Inspector General based on*
14 *volume and expenditures), of—*

15 (I) *the prices paid for covered*
16 *part D drugs by PDP sponsors of pre-*
17 *scription drug plans and Medicare Ad-*
18 *vantage organizations offering MA–PD*
19 *plans; and*

20 (II) *the prices paid for covered*
21 *outpatient drugs by a State plan*
22 *under title XIX.*

23 (ii) *An assessment of—*

1 (I) *the financial impact of any*
2 *discrepancies in such prices on the*
3 *Federal Government; and*

4 (II) *the financial impact of any*
5 *such discrepancies on enrollees under*
6 *part D or individuals eligible for med-*
7 *ical assistance under a State plan*
8 *under title XIX.*

9 (B) *PRICE.—For purposes of subparagraph*
10 *(A), the price of a covered part D drug or a cov-*
11 *ered outpatient drug shall include any rebate or*
12 *discount under such program or such title, re-*
13 *spectively, including any negotiated price conces-*
14 *sion described in section 1860D–2(d)(1)(B) of the*
15 *Social Security Act (42 U.S.C. 1395w–*
16 *102(d)(1)(B)) or rebate under an agreement*
17 *under section 1927 of the Social Security Act (42*
18 *U.S.C. 1396r–8).*

19 (C) *AUTHORITY TO COLLECT ANY NEC-*
20 *CESSARY INFORMATION.—Notwithstanding any*
21 *other provision of law, the Inspector General of*
22 *the Department of Health and Human Services*
23 *shall be able to collect any information related to*
24 *the prices of covered part D drugs under such*
25 *program and covered outpatient drugs under*

1 *such title XIX necessary to carry out the com-*
2 *parison under subparagraph (A).*

3 (2) *REPORT.—*

4 (A) *IN GENERAL.—Not later than October 1,*
5 *2011, subject to subparagraph (B), the Inspector*
6 *General shall submit to Congress a report con-*
7 *taining the results of the study conducted under*
8 *paragraph (1), together with recommendations*
9 *for such legislation and administrative action as*
10 *the Inspector General determines appropriate.*

11 (B) *LIMITATION ON INFORMATION CON-*
12 *TAINED IN REPORT.—The report submitted under*
13 *subparagraph (A) shall not include any informa-*
14 *tion that the Inspector General determines is*
15 *proprietary or is likely to negatively impact the*
16 *ability of a PDP sponsor or a State plan under*
17 *title XIX to negotiate prices for covered part D*
18 *drugs or covered outpatient drugs, respectively.*

19 (3) *DEFINITIONS.—In this section:*

20 (A) *COVERED PART D DRUG.—The term*
21 *“covered part D drug” has the meaning given*
22 *such term in section 1860D–2(e) of the Social*
23 *Security Act (42 U.S.C. 1395w–102(e)).*

24 (B) *COVERED OUTPATIENT DRUG.—The*
25 *term “covered outpatient drug” has the meaning*

1 *given such term in section 1927(k) of such Act*
2 *(42 U.S.C. 1396r(k)).*

3 (C) *MA–PD PLAN.—The term “MA–PD*
4 *plan” has the meaning given such term in sec-*
5 *tion 1860D–41(a)(9) of such Act (42 U.S.C.*
6 *1395w–151(a)(9)).*

7 (D) *MEDICARE ADVANTAGE ORGANIZA-*
8 *TION.—The term “Medicare Advantage organiza-*
9 *tion” has the meaning given such term in section*
10 *1859(a)(1) of such Act (42 U.S.C. 1395w–*
11 *28)(a)(1)).*

12 (E) *PDP SPONSOR.—The term “PDP spon-*
13 *sor” has the meaning given such term in section*
14 *1860D–41(a)(13) of such Act (42 U.S.C. 1395w–*
15 *151(a)(13)).*

16 (F) *PRESCRIPTION DRUG PLAN.—The term*
17 *“prescription drug plan” has the meaning given*
18 *such term in section 1860D–41(a)(14) of such*
19 *Act (42 U.S.C. 1395w–151(a)(14)).*

1 **SEC. 3314. INCLUDING COSTS INCURRED BY AIDS DRUG AS-**
2 **SISTANCE PROGRAMS AND INDIAN HEALTH**
3 **SERVICE IN PROVIDING PRESCRIPTION**
4 **DRUGS TOWARD THE ANNUAL OUT-OF-POCK-**
5 **ET THRESHOLD UNDER PART D.**

6 (a) *IN GENERAL.*—Section 1860D–2(b)(4)(C) of the
7 Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)) is
8 amended—

9 (1) in clause (i), by striking “and” at the end;

10 (2) in clause (ii)—

11 (A) by striking “such costs shall be treated
12 as incurred only if” and inserting “subject to
13 clause (iii), such costs shall be treated as in-
14 curred only if”;

15 (B) by striking “, under section 1860D–14,
16 or under a State Pharmaceutical Assistance Pro-
17 gram”; and

18 (C) by striking the period at the end and
19 inserting “; and”; and

20 (3) by inserting after clause (ii) the following
21 new clause:

22 “(iii) such costs shall be treated as in-
23 curred and shall not be considered to be re-
24 imbursed under clause (ii) if such costs are
25 borne or paid—

26 “(I) under section 1860D–14;

1 “(A) *IN GENERAL.*—For the plan year be-
2 ginning on January 1, 2010, the initial coverage
3 limit described in paragraph (3)(B) otherwise
4 applicable shall be increased by \$500.

5 “(B) *APPLICATION.*—In applying subpara-
6 graph (A)—

7 “(i) except as otherwise provided in
8 this subparagraph, there shall be no change
9 in the premiums, bids, or any other param-
10 eters under this part or part C;

11 “(ii) costs that would be treated as in-
12 curred costs for purposes of applying para-
13 graph (4) but for the application of sub-
14 paragraph (A) shall continue to be treated
15 as incurred costs;

16 “(iii) the Secretary shall establish pro-
17 cedures, which may include a reconciliation
18 process, to fully reimburse PDP sponsors
19 with respect to prescription drug plans and
20 MA organizations with respect to MA-PD
21 plans for the reduction in beneficiary cost
22 sharing associated with the application of
23 subparagraph (A);

24 “(iv) the Secretary shall develop an es-
25 timate of the additional increased costs at-

1 *tributable to the application of this para-*
2 *graph for increased drug utilization and fi-*
3 *nancing and administrative costs and shall*
4 *use such estimate to adjust payments to*
5 *PDP sponsors with respect to prescription*
6 *drug plans under this part and MA organi-*
7 *zations with respect to MA–PD plans under*
8 *part C; and*

9 *“(v) the Secretary shall establish proce-*
10 *dures for retroactive reimbursement of part*
11 *D eligible individuals who are covered*
12 *under such a plan for costs which are in-*
13 *curring before the date of initial implemen-*
14 *tation of subparagraph (A) and which*
15 *would be reimbursed under such a plan if*
16 *such implementation occurred as of Janu-*
17 *ary 1, 2010.*

18 *“(C) NO EFFECT ON SUBSEQUENT YEARS.—*
19 *The increase under subparagraph (A) shall only*
20 *apply with respect to the plan year beginning on*
21 *January 1, 2010, and the initial coverage limit*
22 *for plan years beginning on or after January 1,*
23 *2011, shall be determined as if subparagraph (A)*
24 *had never applied.”.*

1 ***Subtitle E—Ensuring Medicare***
 2 ***Sustainability***

3 ***SEC. 3401. REVISION OF CERTAIN MARKET BASKET UP-***
 4 ***DATES AND INCORPORATION OF PRODUC-***
 5 ***TIVITY IMPROVEMENTS INTO MARKET BAS-***
 6 ***KET UPDATES THAT DO NOT ALREADY INCOR-***
 7 ***PORATE SUCH IMPROVEMENTS.***

8 (a) *INPATIENT ACUTE HOSPITALS.*—*Section*
 9 *1886(b)(3)(B) of the Social Security Act (42 U.S.C.*
 10 *1395ww(b)(3)(B)), as amended by section 3001(a)(3), is*
 11 *further amended—*

12 (1) *in clause (i)(XX), by striking “clause (viii)”*
 13 *and inserting “clauses (viii), (ix), (xi), and (xii)”;*

14 (2) *in the first sentence of clause (viii), by in-*
 15 *serting “of such applicable percentage increase (deter-*
 16 *mined without regard to clause (ix), (xi), or (xii))”*
 17 *after “one-quarter”;*

18 (3) *in the first sentence of clause (ix)(I), by in-*
 19 *serting “(determined without regard to clause (viii),*
 20 *(xi), or (xii))” after “clause (i)” the second time it*
 21 *appears; and*

22 (4) *by adding at the end the following new*
 23 *clauses:*

24 *“(xi)(I) For 2012 and each subsequent fiscal year,*
 25 *after determining the applicable percentage increase de-*

1 *scribed in clause (i) and after application of clauses (viii)*
2 *and (ix), such percentage increase shall be reduced by the*
3 *productivity adjustment described in subclause (II).*

4 “(II) *The productivity adjustment described in this*
5 *subclause, with respect to a percentage, factor, or update*
6 *for a fiscal year, year, cost reporting period, or other an-*
7 *nual period, is a productivity adjustment equal to the 10-*
8 *year moving average of changes in annual economy-wide*
9 *private nonfarm business multi-factor productivity (as pro-*
10 *jected by the Secretary for the 10-year period ending with*
11 *the applicable fiscal year, year, cost reporting period, or*
12 *other annual period).*

13 “(III) *The application of subclause (I) may result in*
14 *the applicable percentage increase described in clause (i)*
15 *being less than 0.0 for a fiscal year, and may result in pay-*
16 *ment rates under this section for a fiscal year being less*
17 *than such payment rates for the preceding fiscal year.*

18 “(xii) *After determining the applicable percentage in-*
19 *crease described in clause (i), and after application of*
20 *clauses (viii), (ix), and (xi), the Secretary shall reduce such*
21 *applicable percentage increase—*

22 “(I) *for each of fiscal years 2010 and 2011, by*
23 *0.25 percentage point; and*

24 “(II) *subject to clause (xiii), for each of fiscal*
25 *years 2012 through 2019, by 0.2 percentage point.*

1 *The application of this clause may result in the applicable*
 2 *percentage increase described in clause (i) being less than*
 3 *0.0 for a fiscal year, and may result in payment rates*
 4 *under this section for a fiscal year being less than such pay-*
 5 *ment rates for the preceding fiscal year.*

6 “(xiii) Clause (xii) shall be applied with respect to any
 7 of fiscal years 2014 through 2019 by substituting ‘0.0 per-
 8 centage points’ for ‘0.2 percentage point’, if for such fiscal
 9 year—

10 “(I) the excess (if any) of—

11 “(aa) the total percentage of the non-elderly
 12 insured population for the preceding fiscal year
 13 (based on the most recent estimates available
 14 from the Director of the Congressional Budget
 15 Office before a vote in either House on the Pa-
 16 tient Protection and Affordable Care Act that, if
 17 determined in the affirmative, would clear such
 18 Act for enrollment); over

19 “(bb) the total percentage of the non-elderly
 20 insured population for such preceding fiscal year
 21 (as estimated by the Secretary); exceeds

22 “(II) 5 percentage points.”

23 (b) *SKILLED NURSING FACILITIES.*—Section
 24 1888(e)(5)(B) of the Social Security Act (42 U.S.C.
 25 1395yy(e)(5)(B)) is amended—

1 (1) by striking “PERCENTAGE.—The term” and
2 inserting “PERCENTAGE.—

3 “(i) IN GENERAL.—Subject to clause
4 (ii), the term”; and

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

7 “(ii) ADJUSTMENT.—For fiscal year
8 2012 and each subsequent fiscal year, after
9 determining the percentage described in
10 clause (i), the Secretary shall reduce such
11 percentage by the productivity adjustment
12 described in section 1886(b)(3)(B)(xi)(II).
13 The application of the preceding sentence
14 may result in such percentage being less
15 than 0.0 for a fiscal year, and may result
16 in payment rates under this subsection for
17 a fiscal year being less than such payment
18 rates for the preceding fiscal year.”.

19 (c) LONG-TERM CARE HOSPITALS.—Section 1886(m)
20 of the Social Security Act (42 U.S.C. 1395ww(m)) is
21 amended by adding at the end the following new para-
22 graphs:

23 “(3) IMPLEMENTATION FOR RATE YEAR 2010 AND
24 SUBSEQUENT YEARS.—

1 “(A) *IN GENERAL.*—*In implementing the*
2 *system described in paragraph (1) for rate year*
3 *2010 and each subsequent rate year, any annual*
4 *update to a standard Federal rate for discharges*
5 *for the hospital during the rate year, shall be re-*
6 *duced—*

7 “(i) *for rate year 2012 and each subse-*
8 *quent rate year, by the productivity adjust-*
9 *ment described in section*
10 *1886(b)(3)(B)(xi)(II); and*

11 “(ii) *for each of rate years 2010*
12 *through 2019, by the other adjustment de-*
13 *scribed in paragraph (4).*

14 “(B) *SPECIAL RULE.*—*The application of*
15 *this paragraph may result in such annual up-*
16 *date being less than 0.0 for a rate year, and may*
17 *result in payment rates under the system de-*
18 *scribed in paragraph (1) for a rate year being*
19 *less than such payment rates for the preceding*
20 *rate year.*

21 “(4) *OTHER ADJUSTMENT.*—

22 “(A) *IN GENERAL.*—*For purposes of para-*
23 *graph (3)(A)(ii), the other adjustment described*
24 *in this paragraph is—*

1 “(i) for each of rate years 2010 and
2 2011, 0.25 percentage point; and

3 “(ii) subject to subparagraph (B), for
4 each of rate years 2012 through 2019, 0.2
5 percentage point.

6 “(B) *REDUCTION OF OTHER ADJUST-*
7 *MENT.*—Subparagraph (A)(ii) shall be applied
8 with respect to any of rate years 2014 through
9 2019 by substituting ‘0.0 percentage points’ for
10 ‘0.2 percentage point’, if for such rate year—

11 “(i) the excess (if any) of—

12 “(I) the total percentage of the
13 non-elderly insured population for the
14 preceding rate year (based on the most
15 recent estimates available from the Di-
16 rector of the Congressional Budget Of-
17 fice before a vote in either House on
18 the Patient Protection and Affordable
19 Care Act that, if determined in the af-
20 firmative, would clear such Act for en-
21 rollment); over

22 “(II) the total percentage of the
23 non-elderly insured population for such
24 preceding rate year (as estimated by
25 the Secretary); exceeds

1 “(ii) 5 percentage points.”.

2 (d) *INPATIENT REHABILITATION FACILITIES*.—Section
3 1886(j)(3) of the Social Security Act (42 U.S.C.
4 1395ww(j)(3)) is amended—

5 (1) in subparagraph (C)—

6 (A) by striking “FACTOR.—For purposes”
7 and inserting “FACTOR.—

8 “(i) *IN GENERAL*.—For purposes”;

9 (B) by inserting “subject to clause (ii)” be-
10 fore the period at the end of the first sentence of
11 clause (i), as added by paragraph (1); and

12 (C) by adding at the end the following new
13 clause:

14 “(ii) *PRODUCTIVITY AND OTHER AD-*
15 *JUSTMENT*.—After establishing the increase
16 factor described in clause (i) for a fiscal
17 year, the Secretary shall reduce such in-
18 crease factor—

19 “(I) for fiscal year 2012 and each
20 subsequent fiscal year, by the produc-
21 tivity adjustment described in section
22 1886(b)(3)(B)(xi)(II); and

23 “(II) for each of fiscal years 2010
24 through 2019, by the other adjustment
25 described in subparagraph (D).

1 *The application of this clause may result in*
2 *the increase factor under this subparagraph*
3 *being less than 0.0 for a fiscal year, and*
4 *may result in payment rates under this*
5 *subsection for a fiscal year being less than*
6 *such payment rates for the preceding fiscal*
7 *year.”; and*

8 (2) *by adding at the end the following new sub-*
9 *paragraph:*

10 “(D) *OTHER ADJUSTMENT.—*

11 “(i) *IN GENERAL.—For purposes of*
12 *subparagraph (C)(ii)(II), the other adjust-*
13 *ment described in this subparagraph is—*

14 “(I) *for each of fiscal years 2010*
15 *and 2011, 0.25 percentage point; and*

16 “(II) *subject to clause (i), for*
17 *each of fiscal years 2012 through 2019,*
18 *0.2 percentage point.*

19 “(ii) *REDUCTION OF OTHER ADJUST-*
20 *MENT.—Clause (i)(II) shall be applied with*
21 *respect to any of fiscal years 2014 through*
22 *2019 by substituting ‘0.0 percentage points’*
23 *for ‘0.2 percentage point’, if for such fiscal*
24 *year—*

25 “(I) *the excess (if any) of—*

1 “(aa) the total percentage of
2 the non-elderly insured popu-
3 lation for the preceding fiscal year
4 (based on the most recent esti-
5 mates available from the Director
6 of the Congressional Budget Office
7 before a vote in either House on
8 the Patient Protection and Afford-
9 able Care Act that, if determined
10 in the affirmative, would clear
11 such Act for enrollment); over

12 “(bb) the total percentage of
13 the non-elderly insured popu-
14 lation for such preceding fiscal
15 year (as estimated by the Sec-
16 retary); exceeds

17 “(II) 5 percentage points.”.

18 (e) *HOME HEALTH AGENCIES*.—Section 1895(b)(3)(B)
19 of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)) is
20 amended—

21 (1) in clause (ii)(V), by striking “clause (v)”
22 and inserting “clauses (v) and (vi)”; and

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

1 “(vi) *ADJUSTMENTS.*—After deter-
2 mining the home health market basket per-
3 centage increase under clause (iii), and
4 after application of clause (v), the Secretary
5 shall reduce such percentage—

6 “(I) for 2015 and each subsequent
7 year, by the productivity adjustment
8 described in section
9 1886(b)(3)(B)(xi)(II); and

10 “(II) for each of 2011 and 2012,
11 by 1 percentage point.

12 *The application of this clause may result in*
13 *the home health market basket percentage*
14 *increase under clause (iii) being less than*
15 *0.0 for a year, and may result in payment*
16 *rates under the system under this subsection*
17 *for a year being less than such payment*
18 *rates for the preceding year.”.*

19 (f) *PSYCHIATRIC HOSPITALS.*—Section 1886 of the So-
20 cial Security Act, as amended by sections 3001, 3008, 3025,
21 and 3133, is amended by adding at the end the following
22 new subsection:

23 “(s) *PROSPECTIVE PAYMENT FOR PSYCHIATRIC HOS-*
24 *PITALS.*—

1 “(1) *REFERENCE TO ESTABLISHMENT AND IM-*
2 *PLEMENTATION OF SYSTEM.—For provisions related*
3 *to the establishment and implementation of a prospec-*
4 *tive payment system for payments under this title for*
5 *inpatient hospital services furnished by psychiatric*
6 *hospitals (as described in clause (i) of subsection*
7 *(d)(1)(B)) and psychiatric units (as described in the*
8 *matter following clause (v) of such subsection), see*
9 *section 124 of the Medicare, Medicaid, and SCHIP*
10 *Balanced Budget Refinement Act of 1999.*

11 “(2) *IMPLEMENTATION FOR RATE YEAR BEGIN-*
12 *NING IN 2010 AND SUBSEQUENT RATE YEARS.—*

13 “(A) *IN GENERAL.—In implementing the*
14 *system described in paragraph (1) for the rate*
15 *year beginning in 2010 and any subsequent rate*
16 *year, any update to a base rate for days during*
17 *the rate year for a psychiatric hospital or unit,*
18 *respectively, shall be reduced—*

19 “(i) *for the rate year beginning in*
20 *2012 and each subsequent rate year, by the*
21 *productivity adjustment described in section*
22 *1886(b)(3)(B)(xi)(II); and*

23 “(ii) *for each of the rate years begin-*
24 *ning in 2010 through 2019, by the other ad-*
25 *justment described in paragraph (3).*

1 “(B) *SPECIAL RULE.*—*The application of*
2 *this paragraph may result in such update being*
3 *less than 0.0 for a rate year, and may result in*
4 *payment rates under the system described in*
5 *paragraph (1) for a rate year being less than*
6 *such payment rates for the preceding rate year.*

7 “(3) *OTHER ADJUSTMENT.*—

8 “(A) *IN GENERAL.*—*For purposes of para-*
9 *graph (2)(A)(ii), the other adjustment described*
10 *in this paragraph is—*

11 “(i) *for each of the rate years begin-*
12 *ning in 2010 and 2011, 0.25 percentage*
13 *point; and*

14 “(ii) *subject to subparagraph (B), for*
15 *each of the rate years beginning in 2012*
16 *through 2019, 0.2 percentage point.*

17 “(B) *REDUCTION OF OTHER ADJUST-*
18 *MENT.*—*Subparagraph (A)(ii) shall be applied*
19 *with respect to any of rate years 2014 through*
20 *2019 by substituting ‘0.0 percentage points’ for*
21 *‘0.2 percentage point’, if for such rate year—*

22 “(i) *the excess (if any) of—*

23 “(I) *the total percentage of the*
24 *non-elderly insured population for the*
25 *preceding rate year (based on the most*

1 *recent estimates available from the Di-*
2 *rector of the Congressional Budget Of-*
3 *fice before a vote in either House on*
4 *the Patient Protection and Affordable*
5 *Care Act that, if determined in the af-*
6 *firmative, would clear such Act for en-*
7 *rollment); over*

8 *“(II) the total percentage of the*
9 *non-elderly insured population for such*
10 *preceding rate year (as estimated by*
11 *the Secretary); exceeds*

12 *“(ii) 5 percentage points.”.*

13 *(g) HOSPICE CARE.—Section 1814(i)(1)(C) of the So-*
14 *cial Security Act (42 U.S.C. 1395f(i)(1)(C)), as amended*
15 *by section 3132, is amended by adding at the end the fol-*
16 *lowing new clauses:*

17 *“(iv) After determining the market basket percentage*
18 *increase under clause (ii)(VII) or (iii), as applicable, with*
19 *respect to fiscal year 2013 and each subsequent fiscal year,*
20 *the Secretary shall reduce such percentage—*

21 *“(I) for 2013 and each subsequent fiscal year, by*
22 *the productivity adjustment described in section*
23 *1886(b)(3)(B)(xi)(II); and*

24 *“(II) subject to clause (v), for each of fiscal years*
25 *2013 through 2019, by 0.5 percentage point.*

1 *The application of this clause may result in the market bas-*
2 *ket percentage increase under clause (ii)(VII) or (iii), as*
3 *applicable, being less than 0.0 for a fiscal year, and may*
4 *result in payment rates under this subsection for a fiscal*
5 *year being less than such payment rates for the preceding*
6 *fiscal year.*

7 “(v) Clause (iv)(II) shall be applied with respect to
8 any of fiscal years 2014 through 2019 by substituting ‘0.0
9 percentage points’ for ‘0.5 percentage point’, if for such fis-
10 cal year—

11 “(I) the excess (if any) of—

12 “(aa) the total percentage of the non-elderly
13 insured population for the preceding fiscal year
14 (based on the most recent estimates available
15 from the Director of the Congressional Budget
16 Office before a vote in either House on the Pa-
17 tient Protection and Affordable Care Act that, if
18 determined in the affirmative, would clear such
19 Act for enrollment); over

20 “(bb) the total percentage of the non-elderly
21 insured population for such preceding fiscal year
22 (as estimated by the Secretary); exceeds

23 “(II) 5 percentage points.”.

24 (h) *DIALYSIS*.—Section 1881(b)(14)(F) of the Social
25 Security Act (42 U.S.C. 1395rr(b)(14)(F)) is amended—

1 (1) *in clause (i)—*

2 (A) *by inserting “(I)” after “(F)(i)”*

3 (B) *in subclause (I), as inserted by sub-*
4 *paragraph (A)—*

5 (i) *by striking “clause (ii)” and insert-*
6 *ing “subclause (II) and clause (ii)”;* and

7 (ii) *by striking “minus 1.0 percentage*
8 *point”;* and

9 (C) *by adding at the end the following new*
10 *subclause:*

11 “*(II) For 2012 and each subsequent year, after deter-*
12 *mining the increase factor described in subclause (I), the*
13 *Secretary shall reduce such increase factor by the produc-*
14 *tivity adjustment described in section*
15 *1886(b)(3)(B)(xi)(II). The application of the preceding sen-*
16 *tence may result in such increase factor being less than 0.0*
17 *for a year, and may result in payment rates under the pay-*
18 *ment system under this paragraph for a year being less*
19 *than such payment rates for the preceding year.”;* and

20 (2) *in clause (i)(II)—*

21 (A) *by striking “The” and inserting “Sub-*
22 *ject to clause (i)(II), the”;* and

23 (B) *by striking “clause (i) minus 1.0 per-*
24 *centage point” and inserting “clause (i)(I)”.*

1 (i) *OUTPATIENT HOSPITALS.*—Section 1833(t)(3) of
2 the Social Security Act (42 U.S.C. 1395l(t)(3)) is amend-
3 ed—

4 (1) in subparagraph (C)(iv), by inserting “and
5 subparagraph (F) of this paragraph” after “(17)”;
6 and

7 (2) by adding at the end the following new sub-
8 paragraphs:

9 “(F) *PRODUCTIVITY AND OTHER ADJUST-*
10 *MENT.*—After determining the OPD fee schedule
11 increase factor under subparagraph (C)(iv), the
12 Secretary shall reduce such increase factor—

13 “(i) for 2012 and subsequent years, by
14 the productivity adjustment described in
15 section 1886(b)(3)(B)(xi)(II); and

16 “(ii) for each of 2010 through 2019, by
17 the adjustment described in subparagraph
18 (G).

19 The application of this subparagraph may result
20 in the increase factor under subparagraph
21 (C)(iv) being less than 0.0 for a year, and may
22 result in payment rates under the payment sys-
23 tem under this subsection for a year being less
24 than such payment rates for the preceding year.

25 “(G) *OTHER ADJUSTMENT.*—

1 “(i) *ADJUSTMENT.*—*For purposes of*
2 *subparagraph (F)(ii), the adjustment de-*
3 *scribed in this subparagraph is—*

4 “(I) *for each of 2010 and 2011,*
5 *0.25 percentage point; and*

6 “(II) *subject to clause (ii), for*
7 *each of 2012 through 2019, 0.2 percent-*
8 *age point.*

9 “(ii) *REDUCTION OF OTHER ADJUST-*
10 *MENT.*—*Clause (i)(II) shall be applied with*
11 *respect to any of 2014 through 2019 by sub-*
12 *stituting ‘0.0 percentage points’ for ‘0.2 per-*
13 *centage point’, if for such year—*

14 “(I) *the excess (if any) of—*

15 “(aa) *the total percentage of*
16 *the non-elderly insured popu-*
17 *lation for the preceding year*
18 *(based on the most recent esti-*
19 *mates available from the Director*
20 *of the Congressional Budget Office*
21 *before a vote in either House on*
22 *the Patient Protection and Afford-*
23 *able Care Act that, if determined*
24 *in the affirmative, would clear*
25 *such Act for enrollment); over*

1 “(bb) the total percentage of
2 the non-elderly insured popu-
3 lation for such preceding year (as
4 estimated by the Secretary); ex-
5 ceeds

6 “(II) 5 percentage points.”.

7 (j) *AMBULANCE SERVICES*.—Section 1834(l)(3) of the
8 *Social Security Act* (42 U.S.C. 1395m(l)(3)) is amended—

9 (1) in subparagraph (A), by striking “and” at
10 the end;

11 (2) in subparagraph (B)—

12 (A) by inserting “, subject to subparagraph
13 (C) and the succeeding sentence of this para-
14 graph,” after “increased”; and

15 (B) by striking the period at the end and
16 inserting “; and”;

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(C) for 2011 and each subsequent year,
20 after determining the percentage increase under
21 subparagraph (B) for the year, reduce such per-
22 centage increase by the productivity adjustment
23 described in section 1886(b)(3)(B)(xi)(II).”; and

24 (4) by adding at the end the following flush sen-
25 tence:

1 *“The application of subparagraph (C) may result in*
2 *the percentage increase under subparagraph (B) being*
3 *less than 0.0 for a year, and may result in payment*
4 *rates under the fee schedule under this subsection for*
5 *a year being less than such payment rates for the pre-*
6 *ceding year.”.*

7 *(k) AMBULATORY SURGICAL CENTER SERVICES.—Sec-*
8 *tion 1833(i)(2)(D) of the Social Security Act (42 U.S.C.*
9 *1395l(i)(2)(D)) is amended—*

10 *(1) by redesignating clause (v) as clause (vi);*
11 *and*

12 *(2) by inserting after clause (iv) the following*
13 *new clause:*

14 *“(v) In implementing the system de-*
15 *scribed in clause (i) for 2011 and each sub-*
16 *sequent year, any annual update under*
17 *such system for the year, after application*
18 *of clause (iv), shall be reduced by the pro-*
19 *ductivity adjustment described in section*
20 *1886(b)(3)(B)(xi)(II). The application of*
21 *the preceding sentence may result in such*
22 *update being less than 0.0 for a year, and*
23 *may result in payment rates under the sys-*
24 *tem described in clause (i) for a year being*

1 *less than such payment rates for the pre-*
2 *ceding year.”.*

3 *(l) LABORATORY SERVICES.—Section 1833(h)(2)(A) of*
4 *the Social Security Act (42 U.S.C. 1395l(h)(2)(A)) is*
5 *amended—*

6 *(1) in clause (i)—*

7 *(A) by inserting “, subject to clause (iv),”*
8 *after “year) by”; and*

9 *(B) by striking “through 2013” and insert-*
10 *ing “and 2010”; and*

11 *(2) by adding at the end the following new*
12 *clause:*

13 *“(iv) After determining the adjustment*
14 *to the fee schedules under clause (i), the Sec-*
15 *retary shall reduce such adjustment—*

16 *“(I) for 2011 and each subsequent*
17 *year, by the productivity adjustment*
18 *described in section*
19 *1886(b)(3)(B)(xi)(II); and*

20 *“(II) for each of 2011 through*
21 *2015, by 1.75 percentage points.*

22 *Subclause (I) shall not apply in a year*
23 *where the adjustment to the fee schedules de-*
24 *termined under clause (i) is 0.0 or a per-*
25 *centage decrease for a year. The application*

1 *of the productivity adjustment under sub-*
2 *clause (I) shall not result in an adjustment*
3 *to the fee schedules under clause (i) being*
4 *less than 0.0 for a year. The application of*
5 *subclause (II) may result in an adjustment*
6 *to the fee schedules under clause (i) being*
7 *less than 0.0 for a year, and may result in*
8 *payment rates for a year being less than*
9 *such payment rates for the preceding year.”.*

10 *(m) CERTAIN DURABLE MEDICAL EQUIPMENT.—Sec-*
11 *tion 1834(a)(14) of the Social Security Act (42 U.S.C.*
12 *1395m(a)(14)) is amended—*

13 *(1) in subparagraph (K)—*

14 *(A) by striking “2011, 2012, and 2013,”;*

15 *and*

16 *(B) by inserting “and” after the semicolon*
17 *at the end;*

18 *(2) by striking subparagraphs (L) and (M) and*
19 *inserting the following new subparagraph:*

20 *“(L) for 2011 and each subsequent year—*

21 *“(i) the percentage increase in the con-*
22 *sumer price index for all urban consumers*
23 *(United States city average) for the 12-*
24 *month period ending with June of the pre-*
25 *vious year, reduced by—*

1 “(ii) the productivity adjustment de-
2 scribed in section 1886(b)(3)(B)(xi)(II).”;
3 and

4 (3) by adding at the end the following flush sen-
5 tence:

6 “The application of subparagraph (L)(ii) may result
7 in the covered item update under this paragraph
8 being less than 0.0 for a year, and may result in pay-
9 ment rates under this subsection for a year being less
10 than such payment rates for the preceding year.”.

11 (n) *PROSTHETIC DEVICES, ORTHOTICS, AND PROS-*
12 *THETICS.*—Section 1834(h)(4) of the Social Security Act
13 (42 U.S.C. 1395m(h)(4)) is amended—

14 (1) in subparagraph (A)—

15 (A) in clause (ix), by striking “and” at the
16 end;

17 (B) in clause (x)—

18 (i) by striking “a subsequent year”
19 and inserting “for each of 2007 through
20 2010”; and

21 (ii) by inserting “and” after the semi-
22 colon at the end;

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

1 “(xi) for 2011 and each subsequent
2 year—

3 “(I) the percentage increase in the
4 consumer price index for all urban
5 consumers (United States city average)
6 for the 12-month period ending with
7 June of the previous year, reduced
8 by—

9 “(II) the productivity adjustment
10 described in section
11 1886(b)(3)(B)(xi)(II).”; and

12 (D) by adding at the end the following flush
13 sentence:

14 “The application of subparagraph (A)(xi)(II) may re-
15 sult in the applicable percentage increase under sub-
16 paragraph (A) being less than 0.0 for a year, and
17 may result in payment rates under this subsection for
18 a year being less than such payment rates for the pre-
19 ceding year.”.

20 (o) OTHER ITEMS.—Section 1842(s)(1) of the Social
21 Security Act (42 U.S.C. 1395u(s)(1)) is amended—

22 (1) in the first sentence, by striking “Subject to”
23 and inserting “(A) Subject to”;

24 (2) by striking the second sentence and inserting
25 the following new subparagraph:

1 “(B) Any fee schedule established under this
2 paragraph for such item or service shall be up-
3 dated—

4 “(i) for years before 2011—

5 “(I) subject to subclause (II), by
6 the percentage increase in the con-
7 sumer price index for all urban con-
8 sumers (United States city average) for
9 the 12-month period ending with June
10 of the preceding year; and

11 “(II) for items and services de-
12 scribed in paragraph (2)(D) for 2009,
13 section 1834(a)(14)(J) shall apply
14 under this paragraph instead of the
15 percentage increase otherwise applica-
16 ble; and

17 “(ii) for 2011 and subsequent years—

18 “(I) the percentage increase in the
19 consumer price index for all urban
20 consumers (United States city average)
21 for the 12-month period ending with
22 June of the previous year, reduced
23 by—

1 “(II) the productivity adjustment
2 described in section
3 1886(b)(3)(B)(xi)(II).”; and

4 (3) by adding at the end the following flush sen-
5 tence:

6 “The application of subparagraph (B)(ii)(II) may re-
7 sult in the update under this paragraph being less
8 than 0.0 for a year, and may result in payment rates
9 under any fee schedule established under this para-
10 graph for a year being less than such payment rates
11 for the preceding year.”.

12 (p) NO APPLICATION PRIOR TO APRIL 1, 2010.—Not-
13 withstanding the preceding provisions of this section, the
14 amendments made by subsections (a), (c), and (d) shall not
15 apply to discharges occurring before April 1, 2010.

16 **SEC. 3402. TEMPORARY ADJUSTMENT TO THE CALCULA-**
17 **TION OF PART B PREMIUMS.**

18 Section 1839(i) of the Social Security Act (42 U.S.C.
19 1395r(i)) is amended—

20 (1) in paragraph (2), in the matter preceding
21 subparagraph (A), by inserting “subject to paragraph
22 (6),” after “subsection,”;

23 (2) in paragraph (3)(A)(i), by striking “The ap-
24 plicable” and inserting “Subject to paragraph (6), the
25 applicable”;

1 (3) *by redesignating paragraph (6) as para-*
2 *graph (7); and*

3 (4) *by inserting after paragraph (5) the fol-*
4 *lowing new paragraph:*

5 “(6) *TEMPORARY ADJUSTMENT TO INCOME*
6 *THRESHOLDS.—Notwithstanding any other provision*
7 *of this subsection, during the period beginning on*
8 *January 1, 2011, and ending on December 31,*
9 *2019—*

10 *“(A) the threshold amount otherwise appli-*
11 *cable under paragraph (2) shall be equal to such*
12 *amount for 2010; and*

13 *“(B) the dollar amounts otherwise applica-*
14 *ble under paragraph (3)(C)(i) shall be equal to*
15 *such dollar amounts for 2010.”.*

16 **SEC. 3403. INDEPENDENT MEDICARE ADVISORY BOARD.**

17 (a) *BOARD.—*

18 (1) *IN GENERAL.—Title XVIII of the Social Se-*
19 *curity Act (42 U.S.C. 1395 et seq.), as amended by*
20 *section 3022, is amended by adding at the end the fol-*
21 *lowing new section:*

22 “*INDEPENDENT MEDICARE ADVISORY BOARD*

23 “*SEC. 1899A. (a) ESTABLISHMENT.—There is estab-*
24 *lished an independent board to be known as the ‘Inde-*
25 *pendent Medicare Advisory Board’.*

1 “(b) *PURPOSE.*—*It is the purpose of this section to,*
2 *in accordance with the following provisions of this section,*
3 *reduce the per capita rate of growth in Medicare spend-*
4 *ing—*

5 “(1) *by requiring the Chief Actuary of the Cen-*
6 *ters for Medicare & Medicaid Services to determine in*
7 *each year to which this section applies (in this section*
8 *referred to as ‘a determination year’) the projected*
9 *per capita growth rate under Medicare for the second*
10 *year following the determination year (in this section*
11 *referred to as ‘an implementation year’);*

12 “(2) *if the projection for the implementation*
13 *year exceeds the target growth rate for that year, by*
14 *requiring the Board to develop and submit during the*
15 *first year following the determination year (in this*
16 *section referred to as ‘a proposal year’) a proposal*
17 *containing recommendations to reduce the Medicare*
18 *per capita growth rate to the extent required by this*
19 *section; and*

20 “(3) *by requiring the Secretary to implement*
21 *such proposals unless Congress enacts legislation pur-*
22 *suant to this section.*

23 “(c) *BOARD PROPOSALS.*—

24 “(1) *DEVELOPMENT.*—

1 “(A) *IN GENERAL.*—*The Board shall de-*
2 *velop detailed and specific proposals related to*
3 *the Medicare program in accordance with the*
4 *succeeding provisions of this section.*

5 “(B) *ADVISORY REPORTS.*—*Beginning Jan-*
6 *uary 15, 2014, the Board may develop and sub-*
7 *mit to Congress advisory reports on matters re-*
8 *lated to the Medicare program, regardless of*
9 *whether or not the Board submitted a proposal*
10 *for such year. Such a report may, for years prior*
11 *to 2020, include recommendations regarding im-*
12 *provements to payment systems for providers of*
13 *services and suppliers who are not otherwise sub-*
14 *ject to the scope of the Board’s recommendations*
15 *in a proposal under this section. Any advisory*
16 *report submitted under this subparagraph shall*
17 *not be subject to the rules for congressional con-*
18 *sideration under subsection (d).*

19 “(2) *PROPOSALS.*—

20 “(A) *REQUIREMENTS.*—*Each proposal sub-*
21 *mitted under this section in a proposal year*
22 *shall meet each of the following requirements:*

23 “(i) *If the Chief Actuary of the Centers*
24 *for Medicare & Medicaid Services has made*
25 *a determination under paragraph (7)(A) in*

1 *the determination year, the proposal shall*
2 *include recommendations so that the pro-*
3 *posal as a whole (after taking into account*
4 *recommendations under clause (v)) will re-*
5 *sult in a net reduction in total Medicare*
6 *program spending in the implementation*
7 *year that is at least equal to the applicable*
8 *savings target established under paragraph*
9 *(7)(B) for such implementation year. In de-*
10 *termining whether a proposal meets the re-*
11 *quirement of the preceding sentence, reduc-*
12 *tions in Medicare program spending during*
13 *the 3-month period immediately preceding*
14 *the implementation year shall be counted to*
15 *the extent that such reductions are a result*
16 *of the implementation of recommendations*
17 *contained in the proposal for a change in*
18 *the payment rate for an item or service that*
19 *was effective during such period pursuant*
20 *to subsection (e)(2)(A).*

21 “(ii) *The proposal shall not include*
22 *any recommendation to ration health care,*
23 *raise revenues or Medicare beneficiary pre-*
24 *miums under section 1818, 1818A, or 1839,*
25 *increase Medicare beneficiary cost-sharing*

1 *(including deductibles, coinsurance, and co-*
2 *payments), or otherwise restrict benefits or*
3 *modify eligibility criteria.*

4 “(iii) *In the case of proposals sub-*
5 *mitted prior to December 31, 2018, the pro-*
6 *posal shall not include any recommendation*
7 *that would reduce payment rates for items*
8 *and services furnished, prior to December*
9 *31, 2019, by providers of services (as de-*
10 *defined in section 1861(u)) and suppliers (as*
11 *defined in section 1861(d)) scheduled, pur-*
12 *suant to the amendments made by section*
13 *3401 of the Patient Protection and Afford-*
14 *able Care Act, to receive a reduction to the*
15 *inflationary payment updates of such pro-*
16 *viders of services and suppliers in excess of*
17 *a reduction due to productivity in a year in*
18 *which such recommendations would take ef-*
19 *fect.*

20 “(iv) *As appropriate, the proposal*
21 *shall include recommendations to reduce*
22 *Medicare payments under parts C and D,*
23 *such as reductions in direct subsidy pay-*
24 *ments to Medicare Advantage and prescrip-*
25 *tion drug plans specified under paragraph*

1 (1) and (2) of section 1860D–15(a) that are
2 related to administrative expenses (includ-
3 ing profits) for basic coverage, denying high
4 bids or removing high bids for prescription
5 drug coverage from the calculation of the
6 national average monthly bid amount
7 under section 1860D–13(a)(4), and reduc-
8 tions in payments to Medicare Advantage
9 plans under clauses (i) and (ii) of section
10 1853(a)(1)(B) that are related to adminis-
11 trative expenses (including profits) and per-
12 formance bonuses for Medicare Advantage
13 plans under section 1853(n). Any such rec-
14 ommendation shall not affect the base bene-
15 ficiary premium percentage specified under
16 1860D–13(a).

17 “(v) The proposal shall include rec-
18 ommendations with respect to administra-
19 tive funding for the Secretary to carry out
20 the recommendations contained in the pro-
21 posal.

22 “(vi) The proposal shall only include
23 recommendations related to the Medicare
24 program.

1 “(B) *ADDITIONAL CONSIDERATIONS.*—*In de-*
2 *veloping and submitting each proposal under*
3 *this section in a proposal year, the Board shall,*
4 *to the extent feasible—*

5 “(i) *give priority to recommendations*
6 *that extend Medicare solvency;*

7 “(ii) *include recommendations that—*

8 “(I) *improve the health care deliv-*
9 *ery system and health outcomes, in-*
10 *cluding by promoting integrated care,*
11 *care coordination, prevention and*
12 *wellness, and quality and efficiency*
13 *improvement; and*

14 “(II) *protect and improve Medi-*
15 *care beneficiaries’ access to necessary*
16 *and evidence-based items and services,*
17 *including in rural and frontier areas;*

18 “(iii) *include recommendations that*
19 *target reductions in Medicare program*
20 *spending to sources of excess cost growth;*

21 “(iv) *consider the effects on Medicare*
22 *beneficiaries of changes in payments to pro-*
23 *viders of services (as defined in section*
24 *1861(u)) and suppliers (as defined in sec-*
25 *tion 1861(d));*

1 “(v) consider the effects of the rec-
2 ommendations on providers of services and
3 suppliers with actual or projected negative
4 cost margins or payment updates; and

5 “(vi) consider the unique needs of
6 Medicare beneficiaries who are dually eligi-
7 ble for Medicare and the Medicaid program
8 under title XIX.

9 “(C) NO INCREASE IN TOTAL MEDICARE
10 PROGRAM SPENDING.—Each proposal submitted
11 under this section shall be designed in such a
12 manner that implementation of the recommenda-
13 tions contained in the proposal would not be ex-
14 pected to result, over the 10-year period starting
15 with the implementation year, in any increase
16 in the total amount of net Medicare program
17 spending relative to the total amount of net
18 Medicare program spending that would have oc-
19 curred absent such implementation.

20 “(D) CONSULTATION WITH MEDPAC.—The
21 Board shall submit a draft copy of each proposal
22 to be submitted under this section to the Medi-
23 care Payment Advisory Commission established
24 under section 1805 for its review. The Board

1 *shall submit such draft copy by not later than*
2 *September 1 of the determination year.*

3 “(E) *REVIEW AND COMMENT BY THE SEC-*
4 *RETARY.—The Board shall submit a draft copy*
5 *of each proposal to be submitted to Congress*
6 *under this section to the Secretary for the Sec-*
7 *retary’s review and comment. The Board shall*
8 *submit such draft copy by not later than Sep-*
9 *tember 1 of the determination year. Not later*
10 *than March 1 of the submission year, the Sec-*
11 *retary shall submit a report to Congress on the*
12 *results of such review, unless the Secretary sub-*
13 *mits a proposal under paragraph (5)(A) in that*
14 *year.*

15 “(F) *CONSULTATIONS.—In carrying out its*
16 *duties under this section, the Board shall engage*
17 *in regular consultations with the Medicaid and*
18 *CHIP Payment and Access Commission under*
19 *section 1900.*

20 “(3) *TRANSMISSION OF BOARD PROPOSAL TO*
21 *PRESIDENT.—*

22 “(A) *IN GENERAL.—*

23 “(i) *IN GENERAL.—Except as provided*
24 *in clause (ii) and subsection (f)(3)(B), the*
25 *Board shall transmit a proposal under this*

1 *section to the President on January 15 of*
2 *each year (beginning with 2014).*

3 “(ii) *EXCEPTION.—The Board shall*
4 *not submit a proposal under clause (i) in a*
5 *proposal year if the year is—*

6 “(I) *a year for which the Chief*
7 *Actuary of the Centers for Medicare &*
8 *Medicaid Services makes a determina-*
9 *tion in the determination year under*
10 *paragraph (6)(A) that the growth rate*
11 *described in clause (i) of such para-*
12 *graph does not exceed the growth rate*
13 *described in clause (ii) of such para-*
14 *graph;*

15 “(II) *a year in which the Chief*
16 *Actuary of the Centers for Medicare &*
17 *Medicaid Services makes a determina-*
18 *tion in the determination year that the*
19 *projected percentage increase (if any)*
20 *for the medical care expenditure cat-*
21 *egory of the Consumer Price Index for*
22 *All Urban Consumers (United States*
23 *city average) for the implementation*
24 *year is less than the projected percent-*
25 *age increase (if any) in the Consumer*

1 *Price Index for All Urban Consumers*
2 *(all items; United States city average)*
3 *for such implementation year; or*

4 “*(III) for proposal year 2019 and*
5 *subsequent proposal years, a year in*
6 *which the Chief Actuary of the Centers*
7 *for Medicare & Medicaid Services*
8 *makes a determination in the deter-*
9 *mination year that the growth rate de-*
10 *scribed in paragraph (8) exceeds the*
11 *growth rate described in paragraph*
12 *(6)(A)(i).*

13 “*(iii) START-UP PERIOD.—The Board*
14 *may not submit a proposal under clause (i)*
15 *prior to January 15, 2014.*

16 “*(B) REQUIRED INFORMATION.—Each pro-*
17 *posal submitted by the Board under subpara-*
18 *graph (A)(i) shall include—*

19 “*(i) the recommendations described in*
20 *paragraph (2)(A)(i);*

21 “*(ii) an explanation of each rec-*
22 *ommendation contained in the proposal and*
23 *the reasons for including such recommenda-*
24 *tion;*

1 “(iii) an actuarial opinion by the
2 Chief Actuary of the Centers for Medicare &
3 Medicaid Services certifying that the pro-
4 posal meets the requirements of subpara-
5 graphs (A)(i) and (C) of paragraph (2);

6 “(iv) a legislative proposal that imple-
7 ments the recommendations; and

8 “(v) other information determined ap-
9 propriate by the Board.

10 “(4) *PRESIDENTIAL SUBMISSION TO CON-*
11 *GRESS.*—Upon receiving a proposal from the Board
12 under paragraph (3)(A)(i) or the Secretary under
13 paragraph (5), the President shall immediately sub-
14 mit such proposal to Congress.

15 “(5) *CONTINGENT SECRETARIAL DEVELOPMENT*
16 *OF PROPOSAL.*—If, with respect to a proposal year,
17 the Board is required, to but fails, to submit a pro-
18 posal to the President by the deadline applicable
19 under paragraph (3)(A)(i), the Secretary shall de-
20 velop a detailed and specific proposal that satisfies
21 the requirements of subparagraphs (A) and (C) (and,
22 to the extent feasible, subparagraph (B)) of paragraph
23 (2) and contains the information required paragraph
24 (3)(B)). By not later than January 25 of the year,
25 the Secretary shall transmit—

1 “(A) *such proposal to the President; and*

2 “(B) *a copy of such proposal to the Medi-*
3 *care Payment Advisory Commission for its re-*
4 *view.*

5 “(6) *PER CAPITA GROWTH RATE PROJECTIONS*
6 *BY CHIEF ACTUARY.—*

7 “(A) *IN GENERAL.—Subject to subsection*
8 *(f)(3)(A), not later than April 30, 2013, and an-*
9 *nually thereafter, the Chief Actuary of the Cen-*
10 *ters for Medicare & Medicaid Services shall de-*
11 *termine in each such year whether—*

12 “(i) *the projected Medicare per capita*
13 *growth rate for the implementation year (as*
14 *determined under subparagraph (B)); ex-*
15 *ceeds*

16 “(ii) *the projected Medicare per capita*
17 *target growth rate for the implementation*
18 *year (as determined under subparagraph*
19 *(C)).*

20 “(B) *MEDICARE PER CAPITA GROWTH*
21 *RATE.—*

22 “(i) *IN GENERAL.—For purposes of*
23 *this section, the Medicare per capita growth*
24 *rate for an implementation year shall be*
25 *calculated as the projected 5-year average*

1 *(ending with such year) of the growth in*
2 *Medicare program spending per*
3 *unduplicated enrollee.*

4 “(i) *REQUIREMENT.*—*The projection*
5 *under clause (i) shall—*

6 “(I) *to the extent that there is*
7 *projected to be a negative update to the*
8 *single conversion factor applicable to*
9 *payments for physicians’ services*
10 *under section 1848(d) furnished in the*
11 *proposal year or the implementation*
12 *year, assume that such update for such*
13 *services is 0 percent rather than the*
14 *negative percent that would otherwise*
15 *apply; and*

16 “(II) *take into account any deliv-*
17 *ery system reforms or other payment*
18 *changes that have been enacted or pub-*
19 *lished in final rules but not yet imple-*
20 *mented as of the making of such cal-*
21 *culatation.*

22 “(C) *MEDICARE PER CAPITA TARGET*
23 *GROWTH RATE.*—*For purposes of this section, the*
24 *Medicare per capita target growth rate for an*
25 *implementation year shall be calculated as the*

1 *projected 5-year average (ending with such year)*
2 *percentage increase in—*

3 “(i) *with respect to a determination*
4 *year that is prior to 2018, the average of*
5 *the projected percentage increase (if any)*
6 *in—*

7 “(I) *the Consumer Price Index for*
8 *All Urban Consumers (all items;*
9 *United States city average); and*

10 “(II) *the medical care expenditure*
11 *category of the Consumer Price Index*
12 *for All Urban Consumers (United*
13 *States city average); and*

14 “(ii) *with respect to a determination*
15 *year that is after 2017, the nominal gross*
16 *domestic product per capita plus 1.0 per-*
17 *centage point.*

18 “(7) *SAVINGS REQUIREMENT.—*

19 “(A) *IN GENERAL.—If, with respect to a de-*
20 *termination year, the Chief Actuary of the Cen-*
21 *ters for Medicare & Medicaid Services makes a*
22 *determination under paragraph (6)(A) that the*
23 *growth rate described in clause (i) of such para-*
24 *graph exceeds the growth rate described in clause*
25 *(ii) of such paragraph, the Chief Actuary shall*

1 *establish an applicable savings target for the im-*
2 *plementation year.*

3 “(B) *APPLICABLE SAVINGS TARGET.—For*
4 *purposes of this section, the applicable savings*
5 *target for an implementation year shall be an*
6 *amount equal to the product of—*

7 “(i) *the total amount of projected*
8 *Medicare program spending for the proposal*
9 *year; and*

10 “(ii) *the applicable percent for the im-*
11 *plementation year.*

12 “(C) *APPLICABLE PERCENT.—For purposes*
13 *of subparagraph (B), the applicable percent for*
14 *an implementation year is the lesser of—*

15 “(i) *in the case of—*

16 “(I) *implementation year 2015,*
17 *0.5 percent;*

18 “(II) *implementation year 2016,*
19 *1.0 percent;*

20 “(III) *implementation year 2017,*
21 *1.25 percent; and*

22 “(IV) *implementation year 2018*
23 *or any subsequent implementation*
24 *year, 1.5 percent; and*

1 “(ii) *the projected excess for the imple-*
2 *mentation year (expressed as a percent) de-*
3 *termined under subparagraph (A).*

4 “(8) *PER CAPITA RATE OF GROWTH IN NATIONAL*
5 *HEALTH EXPENDITURES.—In each determination*
6 *year (beginning in 2018), the Chief Actuary of the*
7 *Centers for Medicare & Medicaid Services shall*
8 *project the per capita rate of growth in national*
9 *health expenditures for the implementation year.*
10 *Such rate of growth for an implementation year shall*
11 *be calculated as the projected 5-year average (ending*
12 *with such year) percentage increase in national*
13 *health care expenditures.*

14 “(d) *CONGRESSIONAL CONSIDERATION.—*

15 “(1) *INTRODUCTION.—*

16 “(A) *IN GENERAL.—On the day on which a*
17 *proposal is submitted by the President to the*
18 *House of Representatives and the Senate under*
19 *subsection (c)(4), the legislative proposal (de-*
20 *scribed in subsection (c)(3)(B)(iv)) contained in*
21 *the proposal shall be introduced (by request) in*
22 *the Senate by the majority leader of the Senate*
23 *or by Members of the Senate designated by the*
24 *majority leader of the Senate and shall be intro-*
25 *duced (by request) in the House by the majority*

1 *leader of the House or by Members of the House*
2 *designated by the majority leader of the House.*

3 “(B) *NOT IN SESSION.*—*If either House is*
4 *not in session on the day on which such legisla-*
5 *tive proposal is submitted, the legislative pro-*
6 *posal shall be introduced in that House, as pro-*
7 *vided in subparagraph (A), on the first day*
8 *thereafter on which that House is in session.*

9 “(C) *ANY MEMBER.*—*If the legislative pro-*
10 *posal is not introduced in either House within 5*
11 *days on which that House is in session after the*
12 *day on which the legislative proposal is sub-*
13 *mitted, then any Member of that House may in-*
14 *troduce the legislative proposal.*

15 “(D) *REFERRAL.*—*The legislation intro-*
16 *duced under this paragraph shall be referred by*
17 *the Presiding Officers of the respective Houses to*
18 *the Committee on Finance in the Senate and to*
19 *the Committee on Energy and Commerce and the*
20 *Committee on Ways and Means in the House of*
21 *Representatives.*

22 “(2) *COMMITTEE CONSIDERATION OF PRO-*
23 *POSAL.*—

24 “(A) *REPORTING BILL.*—*Not later than*
25 *April 1 of any proposal year in which a pro-*

1 *posal is submitted by the President to Congress*
2 *under this section, the Committee on Ways and*
3 *Means and the Committee on Energy and Com-*
4 *merce of the House of Representatives and the*
5 *Committee on Finance of the Senate may report*
6 *the bill referred to the Committee under para-*
7 *graph (1)(D) with committee amendments re-*
8 *lated to the Medicare program.*

9 *“(B) CALCULATIONS.—In determining*
10 *whether a committee amendment meets the re-*
11 *quirement of subparagraph (A), the reductions*
12 *in Medicare program spending during the 3-*
13 *month period immediately preceding the imple-*
14 *mentation year shall be counted to the extent*
15 *that such reductions are a result of the imple-*
16 *mentation provisions in the committee amend-*
17 *ment for a change in the payment rate for an*
18 *item or service that was effective during such pe-*
19 *riod pursuant to such amendment.*

20 *“(C) COMMITTEE JURISDICTION.—Notwith-*
21 *standing rule XV of the Standing Rules of the*
22 *Senate, a committee amendment described in*
23 *subparagraph (A) may include matter not with-*
24 *in the jurisdiction of the Committee on Finance*

1 *if that matter is relevant to a proposal contained*
2 *in the bill submitted under subsection (c)(3).*

3 “(D) *DISCHARGE.*—*If, with respect to the*
4 *House involved, the committee has not reported*
5 *the bill by the date required by subparagraph*
6 *(A), the committee shall be discharged from fur-*
7 *ther consideration of the proposal.*

8 “(3) *LIMITATION ON CHANGES TO THE BOARD*
9 *RECOMMENDATIONS.*—

10 “(A) *IN GENERAL.*—*It shall not be in order*
11 *in the Senate or the House of Representatives to*
12 *consider any bill, resolution, or amendment, pur-*
13 *suant to this subsection or conference report*
14 *thereon, that fails to satisfy the requirements of*
15 *subparagraphs (A)(i) and (C) of subsection*
16 *(c)(2).*

17 “(B) *LIMITATION ON CHANGES TO THE*
18 *BOARD RECOMMENDATIONS IN OTHER LEGISLA-*
19 *TION.*—*It shall not be in order in the Senate or*
20 *the House of Representatives to consider any bill,*
21 *resolution, amendment, or conference report*
22 *(other than pursuant to this section) that would*
23 *repeal or otherwise change the recommendations*
24 *of the Board if that change would fail to satisfy*

1 *the requirements of subparagraphs (A)(i) and*
2 *(C) of subsection (c)(2).*

3 “(C) *LIMITATION ON CHANGES TO THIS*
4 *SUBSECTION.—It shall not be in order in the*
5 *Senate or the House of Representatives to con-*
6 *sider any bill, resolution, amendment, or con-*
7 *ference report that would repeal or otherwise*
8 *change this subsection.*

9 “(D) *WAIVER.—This paragraph may be*
10 *waived or suspended in the Senate only by the*
11 *affirmative vote of three-fifths of the Members,*
12 *duly chosen and sworn.*

13 “(E) *APPEALS.—An affirmative vote of*
14 *three-fifths of the Members of the Senate, duly*
15 *chosen and sworn, shall be required in the Sen-*
16 *ate to sustain an appeal of the ruling of the*
17 *Chair on a point of order raised under this*
18 *paragraph.*

19 “(4) *EXPEDITED PROCEDURE.—*

20 “(A) *CONSIDERATION.—A motion to pro-*
21 *ceed to the consideration of the bill in the Senate*
22 *is not debatable.*

23 “(B) *AMENDMENT.—*

24 “(i) *TIME LIMITATION.—Debate in the*
25 *Senate on any amendment to a bill under*

1 *this section shall be limited to 1 hour, to be*
2 *equally divided between, and controlled by,*
3 *the mover and the manager of the bill, and*
4 *debate on any amendment to an amend-*
5 *ment, debatable motion, or appeal shall be*
6 *limited to 30 minutes, to be equally divided*
7 *between, and controlled by, the mover and*
8 *the manager of the bill, except that in the*
9 *event the manager of the bill is in favor of*
10 *any such amendment, motion, or appeal,*
11 *the time in opposition thereto shall be con-*
12 *trolled by the minority leader or such lead-*
13 *er's designee.*

14 “(ii) *GERMANE.*—*No amendment that*
15 *is not germane to the provisions of such bill*
16 *shall be received.*

17 “(iii) *ADDITIONAL TIME.*—*The leaders,*
18 *or either of them, may, from the time under*
19 *their control on the passage of the bill, allot*
20 *additional time to any Senator during the*
21 *consideration of any amendment, debatable*
22 *motion, or appeal.*

23 “(iv) *AMENDMENT NOT IN ORDER.*—*It*
24 *shall not be in order to consider an amend-*
25 *ment that would cause the bill to result in*

1 *a net reduction in total Medicare program*
2 *spending in the implementation year that is*
3 *less than the applicable savings target estab-*
4 *lished under subsection (c)(7)(B) for such*
5 *implementation year.*

6 “(v) *WAIVER AND APPEALS.—This*
7 *paragraph may be waived or suspended in*
8 *the Senate only by the affirmative vote of*
9 *three-fifths of the Members, duly chosen and*
10 *sworn. An affirmative vote of three-fifths of*
11 *the Members of the Senate, duly chosen and*
12 *sworn, shall be required in the Senate to*
13 *sustain an appeal of the ruling of the Chair*
14 *on a point of order raised under this sec-*
15 *tion.*

16 “(C) *CONSIDERATION BY THE OTHER*
17 *HOUSE.—*

18 “(i) *IN GENERAL.—The expedited pro-*
19 *cedures provided in this subsection for the*
20 *consideration of a bill introduced pursuant*
21 *to paragraph (1) shall not apply to such a*
22 *bill that is received by one House from the*
23 *other House if such a bill was not intro-*
24 *duced in the receiving House.*

1 “(i) *BEFORE PASSAGE.*—If a bill that
2 is introduced pursuant to paragraph (1) is
3 received by one House from the other House,
4 after introduction but before disposition of
5 such a bill in the receiving House, then the
6 following shall apply:

7 “(I) *The receiving House shall*
8 *consider the bill introduced in that*
9 *House through all stages of consider-*
10 *ation up to, but not including, pas-*
11 *sage.*

12 “(II) *The question on passage*
13 *shall be put on the bill of the other*
14 *House as amended by the language of*
15 *the receiving House.*

16 “(iii) *AFTER PASSAGE.*—If a bill in-
17 troduced pursuant to paragraph (1) is re-
18 ceived by one House from the other House,
19 after such a bill is passed by the receiving
20 House, then the vote on passage of the bill
21 that originates in the receiving House shall
22 be considered to be the vote on passage of
23 the bill received from the other House as
24 amended by the language of the receiving
25 House.

1 “(iv) *DISPOSITION.*—Upon disposition
2 of a bill introduced pursuant to paragraph
3 (1) that is received by one House from the
4 other House, it shall no longer be in order
5 to consider the bill that originates in the re-
6 ceiving House.

7 “(v) *LIMITATION.*—Clauses (ii), (iii),
8 and (iv) shall apply only to a bill received
9 by one House from the other House if the
10 bill—

11 “(I) is related only to the pro-
12 gram under this title; and

13 “(II) satisfies the requirements of
14 subparagraphs (A)(i) and (C) of sub-
15 section (c)(2).

16 “(D) *SENATE LIMITS ON DEBATE.*—

17 “(i) *IN GENERAL.*—In the Senate, con-
18 sideration of the bill and on all debatable
19 motions and appeals in connection there-
20 with shall not exceed a total of 30 hours,
21 which shall be divided equally between the
22 majority and minority leaders or their des-
23 ignees.

1 “(ii) *MOTION TO FURTHER LIMIT DE-*
2 *BATE.—A motion to further limit debate on*
3 *the bill is in order and is not debatable.*

4 “(iii) *MOTION OR APPEAL.—Any de-*
5 *batable motion or appeal is debatable for*
6 *not to exceed 1 hour, to be divided equally*
7 *between those favoring and those opposing*
8 *the motion or appeal.*

9 “(iv) *FINAL DISPOSITION.—After 30*
10 *hours of consideration, the Senate shall pro-*
11 *ceed, without any further debate on any*
12 *question, to vote on the final disposition*
13 *thereof to the exclusion of all amendments*
14 *not then pending before the Senate at that*
15 *time and to the exclusion of all motions, ex-*
16 *cept a motion to table, or to reconsider and*
17 *one quorum call on demand to establish the*
18 *presence of a quorum (and motions required*
19 *to establish a quorum) immediately before*
20 *the final vote begins.*

21 “(E) *CONSIDERATION IN CONFERENCE.—*

22 “(i) *IN GENERAL.—Consideration in*
23 *the Senate and the House of Representatives*
24 *on the conference report or any messages be-*
25 *tween Houses shall be limited to 10 hours,*

1 *equally divided and controlled by the major-*
2 *ity and minority leaders of the Senate or*
3 *their designees and the Speaker of the*
4 *House of Representatives and the minority*
5 *leader of the House of Representatives or*
6 *their designees.*

7 “(ii) *TIME LIMITATION.*—*Debate in the*
8 *Senate on any amendment under this sub-*
9 *paragraph shall be limited to 1 hour, to be*
10 *equally divided between, and controlled by,*
11 *the mover and the manager of the bill, and*
12 *debate on any amendment to an amend-*
13 *ment, debatable motion, or appeal shall be*
14 *limited to 30 minutes, to be equally divided*
15 *between, and controlled by, the mover and*
16 *the manager of the bill, except that in the*
17 *event the manager of the bill is in favor of*
18 *any such amendment, motion, or appeal,*
19 *the time in opposition thereto shall be con-*
20 *trolled by the minority leader or such lead-*
21 *er’s designee.*

22 “(iii) *FINAL DISPOSITION.*—*After 10*
23 *hours of consideration, the Senate shall pro-*
24 *ceed, without any further debate on any*
25 *question, to vote on the final disposition*

1 *thereof to the exclusion of all motions not*
2 *then pending before the Senate at that time*
3 *or necessary to resolve the differences be-*
4 *tween the Houses and to the exclusion of all*
5 *other motions, except a motion to table, or*
6 *to reconsider and one quorum call on de-*
7 *mand to establish the presence of a quorum*
8 *(and motions required to establish a*
9 *quorum) immediately before the final vote*
10 *begins.*

11 “(iv) *LIMITATION.*—*Clauses (i) through*
12 *(iii) shall only apply to a conference report,*
13 *message or the amendments thereto if the*
14 *conference report, message, or an amend-*
15 *ment thereto—*

16 “(I) *is related only to the pro-*
17 *gram under this title; and*

18 “(II) *satisfies the requirements of*
19 *subparagraphs (A)(i) and (C) of sub-*
20 *section (c)(2).*

21 “(F) *VETO.*—*If the President vetoes the bill*
22 *debate on a veto message in the Senate under*
23 *this subsection shall be 1 hour equally divided*
24 *between the majority and minority leaders or*
25 *their designees.*

1 “(5) *RULES OF THE SENATE AND HOUSE OF*
2 *REPRESENTATIVES.—This subsection and subsection*
3 *(f)(2) are enacted by Congress—*

4 “(A) *as an exercise of the rulemaking power*
5 *of the Senate and the House of Representatives,*
6 *respectively, and is deemed to be part of the rules*
7 *of each House, respectively, but applicable only*
8 *with respect to the procedure to be followed in*
9 *that House in the case of bill under this section,*
10 *and it supersedes other rules only to the extent*
11 *that it is inconsistent with such rules; and*

12 “(B) *with full recognition of the constitu-*
13 *tional right of either House to change the rules*
14 *(so far as they relate to the procedure of that*
15 *House) at any time, in the same manner, and*
16 *to the same extent as in the case of any other*
17 *rule of that House.*

18 “(e) *IMPLEMENTATION OF PROPOSAL.—*

19 “(1) *IN GENERAL.—Notwithstanding any other*
20 *provision of law, the Secretary shall, except as pro-*
21 *vided in paragraph (3), implement the recommenda-*
22 *tions contained in a proposal submitted by the Presi-*
23 *dent to Congress pursuant to this section on August*
24 *15 of the year in which the proposal is so submitted.*

25 “(2) *APPLICATION.—*

1 “(A) *IN GENERAL.*—A recommendation de-
2 scribed in paragraph (1) shall apply as follows:

3 “(i) *In the case of a recommendation*
4 *that is a change in the payment rate for an*
5 *item or service under Medicare in which*
6 *payment rates change on a fiscal year basis*
7 *(or a cost reporting period basis that relates*
8 *to a fiscal year), on a calendar year basis*
9 *(or a cost reporting period basis that relates*
10 *to a calendar year), or on a rate year basis*
11 *(or a cost reporting period basis that relates*
12 *to a rate year), such recommendation shall*
13 *apply to items and services furnished on the*
14 *first day of the first fiscal year, calendar*
15 *year, or rate year (as the case may be) that*
16 *begins after such August 15.*

17 “(ii) *In the case of a recommendation*
18 *relating to payments to plans under parts*
19 *C and D, such recommendation shall apply*
20 *to plan years beginning on the first day of*
21 *the first calendar year that begins after*
22 *such August 15.*

23 “(iii) *In the case of any other rec-*
24 *ommendation, such recommendation shall*
25 *be addressed in the regular regulatory proc-*

1 *ess timeframe and shall apply as soon as*
2 *practicable.*

3 “(B) *INTERIM FINAL RULEMAKING.—The*
4 *Secretary may use interim final rulemaking to*
5 *implement any recommendation described in*
6 *paragraph (1).*

7 “(3) *EXCEPTION.—The Secretary shall not be re-*
8 *quired to implement the recommendations contained*
9 *in a proposal submitted in a proposal year by the*
10 *President to Congress pursuant to this section if—*

11 “(A) *prior to August 15 of the proposal*
12 *year, Federal legislation is enacted that includes*
13 *the following provision: ‘This Act supercedes the*
14 *recommendations of the Board contained in the*
15 *proposal submitted, in the year which includes*
16 *the date of enactment of this Act, to Congress*
17 *under section 1899A of the Social Security Act.’;*
18 *and*

19 “(B) *in the case of implementation year*
20 *2020 and subsequent implementation years, a*
21 *joint resolution described in subsection (f)(1) is*
22 *enacted not later than August 15, 2017.*

23 “(4) *NO AFFECT ON AUTHORITY TO IMPLEMENT*
24 *CERTAIN PROVISIONS.—Nothing in paragraph (3)*
25 *shall be construed to affect the authority of the Sec-*

1 *retary to implement any recommendation contained*
2 *in a proposal or advisory report under this section to*
3 *the extent that the Secretary otherwise has the author-*
4 *ity to implement such recommendation administra-*
5 *tively.*

6 “(5) *LIMITATION ON REVIEW.—There shall be no*
7 *administrative or judicial review under section 1869,*
8 *section 1878, or otherwise of the implementation by*
9 *the Secretary under this subsection of the rec-*
10 *ommendations contained in a proposal.*

11 “(f) *JOINT RESOLUTION REQUIRED TO DISCONTINUE*
12 *THE BOARD.—*

13 “(1) *IN GENERAL.—For purposes of subsection*
14 *(e)(3)(B), a joint resolution described in this para-*
15 *graph means only a joint resolution—*

16 “(A) *that is introduced in 2017 by not later*
17 *than February 1 of such year;*

18 “(B) *which does not have a preamble;*

19 “(C) *the title of which is as follows: ‘Joint*
20 *resolution approving the discontinuation of the*
21 *process for consideration and automatic imple-*
22 *mentation of the annual proposal of the Inde-*
23 *pendent Medicare Advisory Board under section*
24 *1899A of the Social Security Act’; and*

1 “(D) *the matter after the resolving clause of*
2 *which is as follows: ‘That Congress approves the*
3 *discontinuation of the process for consideration*
4 *and automatic implementation of the annual*
5 *proposal of the Independent Medicare Advisory*
6 *Board under section 1899A of the Social Secu-*
7 *rity Act.’.*

8 “(2) *PROCEDURE.—*

9 “(A) *REFERRAL.—A joint resolution de-*
10 *scribed in paragraph (1) shall be referred to the*
11 *Committee on Ways and Means and the Com-*
12 *mittee on Energy and Commerce of the House of*
13 *Representatives and the Committee on Finance*
14 *of the Senate.*

15 “(B) *DISCHARGE.—In the Senate, if the*
16 *committee to which is referred a joint resolution*
17 *described in paragraph (1) has not reported such*
18 *joint resolution (or an identical joint resolution)*
19 *at the end of 20 days after the joint resolution*
20 *described in paragraph (1) is introduced, such*
21 *committee may be discharged from further con-*
22 *sideration of such joint resolution upon a peti-*
23 *tion supported in writing by 30 Members of the*
24 *Senate, and such joint resolution shall be placed*
25 *on the calendar.*

1 “(C) *CONSIDERATION.*—

2 “(i) *IN GENERAL.*—*In the Senate,*
3 *when the committee to which a joint resolu-*
4 *tion is referred has reported, or when a*
5 *committee is discharged (under subpara-*
6 *graph (C)) from further consideration of a*
7 *joint resolution described in paragraph (1),*
8 *it is at any time thereafter in order (even*
9 *though a previous motion to the same effect*
10 *has been disagreed to) for a motion to pro-*
11 *ceed to the consideration of the joint resolu-*
12 *tion to be made, and all points of order*
13 *against the joint resolution (and against*
14 *consideration of the joint resolution) are*
15 *waived, except for points of order under the*
16 *Congressional Budget act of 1974 or under*
17 *budget resolutions pursuant to that Act. The*
18 *motion is not debatable. A motion to recon-*
19 *sider the vote by which the motion is agreed*
20 *to or disagreed to shall not be in order. If*
21 *a motion to proceed to the consideration of*
22 *the joint resolution is agreed to, the joint*
23 *resolution shall remain the unfinished busi-*
24 *ness of the Senate until disposed of.*

1 “(ii) *DEBATE LIMITATION.*—*In the*
2 *Senate, consideration of the joint resolution,*
3 *and on all debatable motions and appeals*
4 *in connection therewith, shall be limited to*
5 *not more than 10 hours, which shall be di-*
6 *vided equally between the majority leader*
7 *and the minority leader, or their designees.*
8 *A motion further to limit debate is in order*
9 *and not debatable. An amendment to, or a*
10 *motion to postpone, or a motion to proceed*
11 *to the consideration of other business, or a*
12 *motion to recommit the joint resolution is*
13 *not in order.*

14 “(iii) *PASSAGE.*—*In the Senate, imme-*
15 *diately following the conclusion of the de-*
16 *bate on a joint resolution described in para-*
17 *graph (1), and a single quorum call at the*
18 *conclusion of the debate if requested in ac-*
19 *cordance with the rules of the Senate, the*
20 *vote on passage of the joint resolution shall*
21 *occur.*

22 “(iv) *APPEALS.*—*Appeals from the de-*
23 *isions of the Chair relating to the applica-*
24 *tion of the rules of the Senate to the proce-*
25 *dure relating to a joint resolution described*

1 *in paragraph (1) shall be decided without*
2 *debate.*

3 “(D) *OTHER HOUSE ACTS FIRST.*—*If, before*
4 *the passage by 1 House of a joint resolution of*
5 *that House described in paragraph (1), that*
6 *House receives from the other House a joint reso-*
7 *lution described in paragraph (1), then the fol-*
8 *lowing procedures shall apply:*

9 “(i) *The joint resolution of the other*
10 *House shall not be referred to a committee.*

11 “(ii) *With respect to a joint resolution*
12 *described in paragraph (1) of the House re-*
13 *ceiving the joint resolution—*

14 “(I) *the procedure in that House*
15 *shall be the same as if no joint resolu-*
16 *tion had been received from the other*
17 *House; but*

18 “(II) *the vote on final passage*
19 *shall be on the joint resolution of the*
20 *other House.*

21 “(E) *EXCLUDED DAYS.*—*For purposes of de-*
22 *termining the period specified in subparagraph*
23 *(B), there shall be excluded any days either*
24 *House of Congress is adjourned for more than 3*
25 *days during a session of Congress.*

1 “(F) *MAJORITY REQUIRED FOR ADOPTION.*—A joint resolution considered under this
2 *subsection shall require an affirmative vote of*
3 *three-fifths of the Members, duly chosen and*
4 *sworn, for adoption.*

6 “(3) *TERMINATION.*—If a joint resolution described in paragraph (1) is enacted not later than
7 *August 15, 2017—*

9 “(A) *the Chief Actuary of the Medicare &*
10 *Medicaid Services shall not—*

11 “(i) *make any determinations under*
12 *subsection (c)(6) after May 1, 2017; or*

13 “(ii) *provide any opinion pursuant to*
14 *subsection (c)(3)(B)(iii) after January 16,*
15 *2018;*

16 “(B) *the Board shall not submit any pro-*
17 *posals or advisory reports to Congress under this*
18 *section after January 16, 2018; and*

19 “(C) *the Board and the consumer advisory*
20 *council under subsection (k) shall terminate on*
21 *August 16, 2018.*

22 “(g) *BOARD MEMBERSHIP; TERMS OF OFFICE; CHAIR-*
23 *PERSON; REMOVAL.—*

24 “(1) *MEMBERSHIP.—*

1 “(A) *IN GENERAL.*—*The Board shall be*
2 *composed of—*

3 “(i) *15 members appointed by the*
4 *President, by and with the advice and con-*
5 *sent of the Senate; and*

6 “(ii) *the Secretary, the Administrator*
7 *of the Center for Medicare & Medicaid Serv-*
8 *ices, and the Administrator of the Health*
9 *Resources and Services Administration, all*
10 *of whom shall serve ex officio as nonvoting*
11 *members of the Board.*

12 “(B) *QUALIFICATIONS.*—

13 “(i) *IN GENERAL.*—*The appointed*
14 *membership of the Board shall include indi-*
15 *viduals with national recognition for their*
16 *expertise in health finance and economics,*
17 *actuarial science, health facility manage-*
18 *ment, health plans and integrated delivery*
19 *systems, reimbursement of health facilities,*
20 *allopathic and osteopathic physicians, and*
21 *other providers of health services, and other*
22 *related fields, who provide a mix of different*
23 *professionals, broad geographic representa-*
24 *tion, and a balance between urban and*
25 *rural representatives.*

1 “(ii) *INCLUSION.*—*The appointed*
2 *membership of the Board shall include (but*
3 *not be limited to) physicians and other*
4 *health professionals, experts in the area of*
5 *pharmaco-economics or prescription drug*
6 *benefit programs, employers, third-party*
7 *payers, individuals skilled in the conduct*
8 *and interpretation of biomedical, health*
9 *services, and health economics research and*
10 *expertise in outcomes and effectiveness re-*
11 *search and technology assessment. Such*
12 *membership shall also include representa-*
13 *tives of consumers and the elderly.*

14 “(iii) *MAJORITY NONPROVIDERS.*—*In-*
15 *dividuals who are directly involved in the*
16 *provision or management of the delivery of*
17 *items and services covered under this title*
18 *shall not constitute a majority of the ap-*
19 *pointed membership of the Board.*

20 “(C) *ETHICAL DISCLOSURE.*—*The President*
21 *shall establish a system for public disclosure by*
22 *appointed members of the Board of financial and*
23 *other potential conflicts of interest relating to*
24 *such members. Appointed members of the Board*
25 *shall be treated as officers in the executive*

1 *branch for purposes of applying title I of the*
2 *Ethics in Government Act of 1978 (Public Law*
3 *95–521).*

4 “(D) *CONFLICTS OF INTEREST.*—*No indi-*
5 *vidual may serve as an appointed member if*
6 *that individual engages in any other business,*
7 *vocation, or employment.*

8 “(E) *CONSULTATION WITH CONGRESS.*—*In*
9 *selecting individuals for nominations for ap-*
10 *pointments to the Board, the President shall con-*
11 *sult with—*

12 “(i) *the majority leader of the Senate*
13 *concerning the appointment of 3 members;*

14 “(ii) *the Speaker of the House of Rep-*
15 *resentatives concerning the appointment of*
16 *3 members;*

17 “(iii) *the minority leader of the Senate*
18 *concerning the appointment of 3 members;*
19 *and*

20 “(iv) *the minority leader of the House*
21 *of Representatives concerning the appoint-*
22 *ment of 3 members.*

23 “(2) *TERM OF OFFICE.*—*Each appointed member*
24 *shall hold office for a term of 6 years except that—*

1 “(A) a member may not serve more than 2
2 full consecutive terms (but may be reappointed to
3 2 full consecutive terms after being appointed to
4 fill a vacancy on the Board);

5 “(B) a member appointed to fill a vacancy
6 occurring prior to the expiration of the term for
7 which that member’s predecessor was appointed
8 shall be appointed for the remainder of such
9 term;

10 “(C) a member may continue to serve after
11 the expiration of the member’s term until a suc-
12 cessor has taken office; and

13 “(D) of the members first appointed under
14 this section, 5 shall be appointed for a term of
15 1 year, 5 shall be appointed for a term of 3
16 years, and 5 shall be appointed for a term of 6
17 years, the term of each to be designated by the
18 President at the time of nomination.

19 “(3) CHAIRPERSON.—

20 “(A) IN GENERAL.—The Chairperson shall
21 be appointed by the President, by and with the
22 advice and consent of the Senate, from among
23 the members of the Board.

24 “(B) DUTIES.—The Chairperson shall be
25 the principal executive officer of the Board, and

1 *shall exercise all of the executive and administra-*
2 *tive functions of the Board, including functions*
3 *of the Board with respect to—*

4 “(i) *the appointment and supervision*
5 *of personnel employed by the Board;*

6 “(ii) *the distribution of business*
7 *among personnel appointed and supervised*
8 *by the Chairperson and among administra-*
9 *tive units of the Board; and*

10 “(iii) *the use and expenditure of funds.*

11 “(C) *GOVERNANCE.—In carrying out any of*
12 *the functions under subparagraph (B), the*
13 *Chairperson shall be governed by the general*
14 *policies established by the Board and by the deci-*
15 *sions, findings, and determinations the Board*
16 *shall by law be authorized to make.*

17 “(D) *REQUESTS FOR APPROPRIATIONS.—*
18 *Requests or estimates for regular, supplemental,*
19 *or deficiency appropriations on behalf of the*
20 *Board may not be submitted by the Chairperson*
21 *without the prior approval of a majority vote of*
22 *the Board.*

23 “(4) *REMOVAL.—Any appointed member may be*
24 *removed by the President for neglect of duty or mal-*
25 *feasance in office, but for no other cause.*

1 “(h) *VACANCIES; QUORUM; SEAL; VICE CHAIRPERSON;*
2 *VOTING ON REPORTS.*—

3 “(1) *VACANCIES.*—*No vacancy on the Board*
4 *shall impair the right of the remaining members to*
5 *exercise all the powers of the Board.*

6 “(2) *QUORUM.*—*A majority of the appointed*
7 *members of the Board shall constitute a quorum for*
8 *the transaction of business, but a lesser number of*
9 *members may hold hearings.*

10 “(3) *SEAL.*—*The Board shall have an official*
11 *seal, of which judicial notice shall be taken.*

12 “(4) *VICE CHAIRPERSON.*—*The Board shall an-*
13 *nually elect a Vice Chairperson to act in the absence*
14 *or disability of the Chairperson or in case of a va-*
15 *cancy in the office of the Chairperson.*

16 “(5) *VOTING ON PROPOSALS.*—*Any proposal of*
17 *the Board must be approved by the majority of ap-*
18 *pointed members present.*

19 “(i) *POWERS OF THE BOARD.*—

20 “(1) *HEARINGS.*—*The Board may hold such*
21 *hearings, sit and act at such times and places, take*
22 *such testimony, and receive such evidence as the*
23 *Board considers advisable to carry out this section.*

24 “(2) *AUTHORITY TO INFORM RESEARCH PRIOR-*
25 *ITIES FOR DATA COLLECTION.*—*The Board may ad-*

1 *advise the Secretary on priorities for health services re-*
2 *search, particularly as such priorities pertain to nec-*
3 *essary changes and issues regarding payment reforms*
4 *under Medicare.*

5 “(3) *OBTAINING OFFICIAL DATA.*—*The Board*
6 *may secure directly from any department or agency*
7 *of the United States information necessary to enable*
8 *it to carry out this section. Upon request of the*
9 *Chairperson, the head of that department or agency*
10 *shall furnish that information to the Board on an*
11 *agreed upon schedule.*

12 “(4) *POSTAL SERVICES.*—*The Board may use the*
13 *United States mails in the same manner and under*
14 *the same conditions as other departments and agen-*
15 *cies of the Federal Government.*

16 “(5) *GIFTS.*—*The Board may accept, use, and*
17 *dispose of gifts or donations of services or property.*

18 “(6) *OFFICES.*—*The Board shall maintain a*
19 *principal office and such field offices as it determines*
20 *necessary, and may meet and exercise any of its pow-*
21 *ers at any other place.*

22 “(j) *PERSONNEL MATTERS.*—

23 “(1) *COMPENSATION OF MEMBERS AND CHAIR-*
24 *PERSON.*—*Each appointed member, other than the*
25 *Chairperson, shall be compensated at a rate equal to*

1 *the annual rate of basic pay prescribed for level III*
2 *of the Executive Schedule under section 5315 of title*
3 *5, United States Code. The Chairperson shall be com-*
4 *pensated at a rate equal to the daily equivalent of the*
5 *annual rate of basic pay prescribed for level II of the*
6 *Executive Schedule under section 5315 of title 5,*
7 *United States Code.*

8 “(2) *TRAVEL EXPENSES.*—*The appointed mem-*
9 *bers shall be allowed travel expenses, including per*
10 *diem in lieu of subsistence, at rates authorized for*
11 *employees of agencies under subchapter I of chapter*
12 *57 of title 5, United States Code, while away from*
13 *their homes or regular places of business in the per-*
14 *formance of services for the Board.*

15 “(3) *STAFF.*—

16 “(A) *IN GENERAL.*—*The Chairperson may,*
17 *without regard to the civil service laws and regu-*
18 *lations, appoint and terminate an executive di-*
19 *rector and such other additional personnel as*
20 *may be necessary to enable the Board to perform*
21 *its duties. The employment of an executive direc-*
22 *tor shall be subject to confirmation by the Board.*

23 “(B) *COMPENSATION.*—*The Chairperson*
24 *may fix the compensation of the executive direc-*
25 *tor and other personnel without regard to chap-*

1 *ter 51 and subchapter III of chapter 53 of title*
2 *5, United States Code, relating to classification*
3 *of positions and General Schedule pay rates, ex-*
4 *cept that the rate of pay for the executive direc-*
5 *tor and other personnel may not exceed the rate*
6 *payable for level V of the Executive Schedule*
7 *under section 5316 of such title.*

8 *“(4) DETAIL OF GOVERNMENT EMPLOYEES.—*
9 *Any Federal Government employee may be detailed to*
10 *the Board without reimbursement, and such detail*
11 *shall be without interruption or loss of civil service*
12 *status or privilege.*

13 *“(5) PROCUREMENT OF TEMPORARY AND INTER-*
14 *MITTENT SERVICES.—The Chairperson may procure*
15 *temporary and intermittent services under section*
16 *3109(b) of title 5, United States Code, at rates for in-*
17 *dividuals which do not exceed the daily equivalent of*
18 *the annual rate of basic pay prescribed for level V of*
19 *the Executive Schedule under section 5316 of such*
20 *title.*

21 *“(k) CONSUMER ADVISORY COUNCIL.—*

22 *“(1) IN GENERAL.—There is established a con-*
23 *sumer advisory council to advise the Board on the*
24 *impact of payment policies under this title on con-*
25 *sumers.*

1 “(2) *MEMBERSHIP.*—

2 “(A) *NUMBER AND APPOINTMENT.*—*The*
3 *consumer advisory council shall be composed of*
4 *10 consumer representatives appointed by the*
5 *Comptroller General of the United States, 1 from*
6 *among each of the 10 regions established by the*
7 *Secretary as of the date of enactment of this sec-*
8 *tion.*

9 “(B) *QUALIFICATIONS.*—*The membership of*
10 *the council shall represent the interests of con-*
11 *sumers and particular communities.*

12 “(3) *DUTIES.*—*The consumer advisory council*
13 *shall, subject to the call of the Board, meet not less*
14 *frequently than 2 times each year in the District of*
15 *Columbia.*

16 “(4) *OPEN MEETINGS.*—*Meetings of the consumer*
17 *advisory council shall be open to the public.*

18 “(5) *ELECTION OF OFFICERS.*—*Members of the*
19 *consumer advisory council shall elect their own offi-*
20 *cers.*

21 “(6) *APPLICATION OF FACCA.*—*The Federal Advi-*
22 *sory Committee Act (5 U.S.C. App.) shall apply to*
23 *the consumer advisory council except that section 14*
24 *of such Act shall not apply.*

25 “(l) *DEFINITIONS.*—*In this section:*

1 “(1) *BOARD; CHAIRPERSON; MEMBER.*—*The*
2 *terms ‘Board’, ‘Chairperson’, and ‘Member’ mean the*
3 *Independent Medicare Advisory Board established*
4 *under subsection (a) and the Chairperson and any*
5 *Member thereof, respectively.*

6 “(2) *MEDICARE.*—*The term ‘Medicare’ means the*
7 *program established under this title, including parts*
8 *A, B, C, and D.*

9 “(3) *MEDICARE BENEFICIARY.*—*The term ‘Medi-*
10 *care beneficiary’ means an individual who is entitled*
11 *to, or enrolled for, benefits under part A or enrolled*
12 *for benefits under part B.*

13 “(4) *MEDICARE PROGRAM SPENDING.*—*The term*
14 *‘Medicare program spending’ means program spend-*
15 *ing under parts A, B, and D net of premiums.*

16 “(m) *FUNDING.*—

17 “(1) *IN GENERAL.*—*There are appropriated to*
18 *the Board to carry out its duties and functions—*

19 “(A) *for fiscal year 2012, \$15,000,000; and*

20 “(B) *for each subsequent fiscal year, the*
21 *amount appropriated under this paragraph for*
22 *the previous fiscal year increased by the annual*
23 *percentage increase in the Consumer Price Index*
24 *for All Urban Consumers (all items; United*

1 *States city average) as of June of the previous*
2 *fiscal year.*

3 “(2) *FROM TRUST FUNDS.—Sixty percent of*
4 *amounts appropriated under paragraph (1) shall be*
5 *derived by transfer from the Federal Hospital Insur-*
6 *ance Trust Fund under section 1817 and 40 percent*
7 *of amounts appropriated under such paragraph shall*
8 *be derived by transfer from the Federal Supple-*
9 *mentary Medical Insurance Trust Fund under section*
10 *1841.”.*

11 (2) *LOBBYING COOLING-OFF PERIOD FOR MEM-*
12 *BERS OF THE INDEPENDENT MEDICARE ADVISORY*
13 *BOARD.—Section 207(c) of title 18, United States*
14 *Code, is amended by inserting at the end the fol-*
15 *lowing:*

16 “(3) *MEMBERS OF THE INDEPENDENT MEDICARE*
17 *ADVISORY BOARD.—*

18 “(A) *IN GENERAL.—Paragraph (1) shall*
19 *apply to a member of the Independent Medicare*
20 *Advisory Board under section 1899A.*

21 “(B) *AGENCIES AND CONGRESS.—For pur-*
22 *poses of paragraph (1), the agency in which the*
23 *individual described in subparagraph (A) served*
24 *shall be considered to be the Independent Medi-*
25 *care Advisory Board, the Department of Health*

1 *and Human Services, and the relevant commit-*
2 *tees of jurisdiction of Congress, including the*
3 *Committee on Ways and Means and the Com-*
4 *mittee on Energy and Commerce of the House of*
5 *Representatives and the Committee on Finance*
6 *of the Senate.”.*

7 ***(b) GAO STUDY AND REPORT ON DETERMINATION***
8 ***AND IMPLEMENTATION OF PAYMENT AND COVERAGE POLI-***
9 ***CIES UNDER THE MEDICARE PROGRAM.—***

10 ***(1) INITIAL STUDY AND REPORT.—***

11 ***(A) STUDY.—****The Comptroller General of*
12 *the United States (in this section referred to as*
13 *the “Comptroller General”) shall conduct a study*
14 *on changes to payment policies, methodologies,*
15 *and rates and coverage policies and methodolo-*
16 *gies under the Medicare program under title*
17 *XVIII of the Social Security Act as a result of*
18 *the recommendations contained in the proposals*
19 *made by the Independent Medicare Advisory*
20 *Board under section 1899A of such Act (as added*
21 *by subsection (a)), including an analysis of the*
22 *effect of such recommendations on—*

23 ***(i) Medicare beneficiary access to pro-***
24 ***viders and items and services;***

1 (ii) the affordability of Medicare pre-
2 miums and cost-sharing (including
3 deductibles, coinsurance, and copayments);

4 (iii) the potential impact of changes on
5 other government or private-sector pur-
6 chasers and payers of care; and

7 (iv) quality of patient care, including
8 patient experience, outcomes, and other
9 measures of care.

10 (B) *REPORT.*—Not later than July 1, 2015,
11 the Comptroller General shall submit to Congress
12 a report containing the results of the study con-
13 ducted under subparagraph (A), together with
14 recommendations for such legislation and ad-
15 ministrative action as the Comptroller General
16 determines appropriate.

17 (2) *SUBSEQUENT STUDIES AND REPORTS.*—The
18 Comptroller General shall periodically conduct such
19 additional studies and submit reports to Congress on
20 changes to Medicare payments policies, methodologies,
21 and rates and coverage policies and methodologies as
22 the Comptroller General determines appropriate, in
23 consultation with the Committee on Ways and Means
24 and the Committee on Energy and Commerce of the

1 *House of Representatives and the Committee on Fi-*
2 *nance of the Senate.*

3 *(c) CONFORMING AMENDMENTS.—Section 1805(b) of*
4 *the Social Security Act (42 U.S.C. 1395b–6(b)) is amend-*
5 *ed—*

6 *(1) by redesignating paragraphs (4) through (8)*
7 *as paragraphs (5) through (9), respectively; and*

8 *(2) by inserting after paragraph (3) the fol-*
9 *lowing:*

10 *“(4) REVIEW AND COMMENT ON THE INDE-*
11 *PENDENT MEDICARE ADVISORY BOARD OR SECRE-*
12 *TARIAL PROPOSAL.—If the Independent Medicare Ad-*
13 *visory Board (as established under subsection (a) of*
14 *section 1899A) or the Secretary submits a proposal to*
15 *the Commission under such section in a year, the*
16 *Commission shall review the proposal and, not later*
17 *than March 1 of that year, submit to the Committee*
18 *on Ways and Means and the Committee on Energy*
19 *and Commerce of the House of Representatives and*
20 *the Committee on Finance of the Senate written com-*
21 *ments on such proposal. Such comments may include*
22 *such recommendations as the Commission deems ap-*
23 *propriate.”.*

1 ***Subtitle F—Health Care Quality***
2 ***Improvements***

3 **SEC. 3501. HEALTH CARE DELIVERY SYSTEM RESEARCH;**
4 **QUALITY IMPROVEMENT TECHNICAL ASSIST-**
5 **ANCE.**

6 *Part D of title IX of the Public Health Service Act,*
7 *as amended by section 3013, is further amended by adding*
8 *at the end the following:*

9 ***“Subpart II—Health Care Quality Improvement***
10 ***Programs***

11 **“SEC. 933. HEALTH CARE DELIVERY SYSTEM RESEARCH.**

12 ***“(a) PURPOSE.—The purposes of this section are to—***

13 ***“(1) enable the Director to identify, develop,***
14 ***evaluate, disseminate, and provide training in inno-***
15 ***vative methodologies and strategies for quality im-***
16 ***provement practices in the delivery of health care***
17 ***services that represent best practices (referred to as***
18 ***‘best practices’) in health care quality, safety, and***
19 ***value; and***

20 ***“(2) ensure that the Director is accountable for***
21 ***implementing a model to pursue such research in a***
22 ***collaborative manner with other related Federal agen-***
23 ***cies.***

24 ***“(b) GENERAL FUNCTIONS OF THE CENTER.—The***
25 ***Center for Quality Improvement and Patient Safety of the***

1 *Agency for Healthcare Research and Quality (referred to*
2 *in this section as the ‘Center’), or any other relevant agency*
3 *or department designated by the Director, shall—*

4 “(1) *carry out its functions using research from*
5 *a variety of disciplines, which may include epidemi-*
6 *ology, health services, sociology, psychology, human*
7 *factors engineering, biostatistics, health economics,*
8 *clinical research, and health informatics;*

9 “(2) *conduct or support activities consistent with*
10 *the purposes described in subsection (a), and for—*

11 “(A) *best practices for quality improvement*
12 *practices in the delivery of health care services;*
13 *and*

14 “(B) *that include changes in processes of*
15 *care and the redesign of systems used by pro-*
16 *viders that will reliably result in intended health*
17 *outcomes, improve patient safety, and reduce*
18 *medical errors (such as skill development for*
19 *health care providers in team-based health care*
20 *delivery and rapid cycle process improvement)*
21 *and facilitate adoption of improved workflow;*

22 “(3) *identify health care providers, including*
23 *health care systems, single institutions, and indi-*
24 *vidual providers, that—*

1 “(A) deliver consistently high-quality, effi-
2 cient health care services (as determined by the
3 Secretary); and

4 “(B) employ best practices that are adapt-
5 able and scalable to diverse health care settings
6 or effective in improving care across diverse set-
7 tings;

8 “(4) assess research, evidence, and knowledge
9 about what strategies and methodologies are most ef-
10 fective in improving health care delivery;

11 “(5) find ways to translate such information
12 rapidly and effectively into practice, and document
13 the sustainability of those improvements;

14 “(6) create strategies for quality improvement
15 through the development of tools, methodologies, and
16 interventions that can successfully reduce variations
17 in the delivery of health care;

18 “(7) identify, measure, and improve organiza-
19 tional, human, or other causative factors, including
20 those related to the culture and system design of a
21 health care organization, that contribute to the success
22 and sustainability of specific quality improvement
23 and patient safety strategies;

24 “(8) provide for the development of best practices
25 in the delivery of health care services that—

1 “(A) have a high likelihood of success, based
2 on structured review of empirical evidence;

3 “(B) are specified with sufficient detail of
4 the individual processes, steps, training, skills,
5 and knowledge required for implementation and
6 incorporation into workflow of health care prac-
7 titioners in a variety of settings;

8 “(C) are designed to be readily adapted by
9 health care providers in a variety of settings;
10 and

11 “(D) where applicable, assist health care
12 providers in working with other health care pro-
13 viders across the continuum of care and in en-
14 gaging patients and their families in improving
15 the care and patient health outcomes;

16 “(9) provide for the funding of the activities of
17 organizations with recognized expertise and excellence
18 in improving the delivery of health care services, in-
19 cluding children’s health care, by involving multiple
20 disciplines, managers of health care entities, broad de-
21 velopment and training, patients, caregivers and fam-
22 ilies, and frontline health care workers, including ac-
23 tivities for the examination of strategies to share best
24 quality improvement practices and to promote excel-
25 lence in the delivery of health care services; and

1 “(10) *build capacity at the State and commu-*
2 *nity level to lead quality and safety efforts through*
3 *education, training, and mentoring programs to*
4 *carry out the activities under paragraphs (1) through*
5 *(9).*

6 “(c) *RESEARCH FUNCTIONS OF CENTER.—*

7 “(1) *IN GENERAL.—The Center shall support,*
8 *such as through a contract or other mechanism, re-*
9 *search on health care delivery system improvement*
10 *and the development of tools to facilitate adoption of*
11 *best practices that improve the quality, safety, and ef-*
12 *iciency of health care delivery services. Such support*
13 *may include establishing a Quality Improvement Net-*
14 *work Research Program for the purpose of testing,*
15 *scaling, and disseminating of interventions to im-*
16 *prove quality and efficiency in health care. Recipients*
17 *of funding under the Program may include national,*
18 *State, multi-State, or multi-site quality improvement*
19 *networks.*

20 “(2) *RESEARCH REQUIREMENTS.—The research*
21 *conducted pursuant to paragraph (1) shall—*

22 “(A) *address the priorities identified by the*
23 *Secretary in the national strategic plan estab-*
24 *lished under section 399HH;*

1 “(B) identify areas in which evidence is in-
2 sufficient to identify strategies and methodolo-
3 gies, taking into consideration areas of insuffi-
4 cient evidence identified by the entity with a
5 contract under section 1890(a) of the Social Se-
6 curity Act in the report required under section
7 399JJ;

8 “(C) address concerns identified by health
9 care institutions and providers and commu-
10 nicated through the Center pursuant to sub-
11 section (d);

12 “(D) reduce preventable morbidity, mor-
13 tality, and associated costs of morbidity and
14 mortality by building capacity for patient safety
15 research;

16 “(E) support the discovery of processes for
17 the reliable, safe, efficient, and responsive deliv-
18 ery of health care, taking into account discov-
19 eries from clinical research and comparative ef-
20 fectiveness research;

21 “(F) allow communication of research find-
22 ings and translate evidence into practice rec-
23 ommendations that are adaptable to a variety of
24 settings, and which, as soon as practicable after
25 the establishment of the Center, shall include—

1 “(i) the implementation of a national
2 application of Intensive Care Unit improve-
3 ment projects relating to the adult (includ-
4 ing geriatric), pediatric, and neonatal pa-
5 tient populations;

6 “(ii) practical methods for addressing
7 health care associated infections, including
8 Methicillin-Resistant *Staphylococcus Aureus*
9 and Vancomycin-Resistant *Enterococcus in-*
10 *fections and other emerging infections; and*

11 “(iii) practical methods for reducing
12 preventable hospital admissions and re-
13 admissions;

14 “(G) expand demonstration projects for im-
15 proving the quality of children’s health care and
16 the use of health information technology, such as
17 through *Pediatric Quality Improvement*
18 *Collaboratives and Learning Networks, consistent*
19 *with provisions of section 1139A of the Social*
20 *Security Act for assessing and improving qual-*
21 *ity, where applicable;*

22 “(H) identify and mitigate hazards by—

23 “(i) analyzing events reported to pa-
24 tient safety reporting systems and patient
25 safety organizations; and

1 “(ii) using the results of such analyses
2 to develop scientific methods of response to
3 such events;

4 “(I) include the conduct of systematic re-
5 views of existing practices that improve the qual-
6 ity, safety, and efficiency of health care delivery,
7 as well as new research on improving such prac-
8 tices; and

9 “(J) include the examination of how to
10 measure and evaluate the progress of quality and
11 patient safety activities.

12 “(d) DISSEMINATION OF RESEARCH FINDINGS.—

13 “(1) PUBLIC AVAILABILITY.—The Director shall
14 make the research findings of the Center available to
15 the public through multiple media and appropriate
16 formats to reflect the varying needs of health care pro-
17 viders and consumers and diverse levels of health lit-
18 eracy.

19 “(2) LINKAGE TO HEALTH INFORMATION TECH-
20 NOLOGY.—The Secretary shall ensure that research
21 findings and results generated by the Center are
22 shared with the Office of the National Coordinator of
23 Health Information Technology and used to inform
24 the activities of the health information technology ex-
25 tension program under section 3012, as well as any

1 *relevant standards, certification criteria, or imple-*
2 *mentation specifications.*

3 “(e) *PRIORITIZATION.—The Director shall identify*
4 *and regularly update a list of processes or systems on which*
5 *to focus research and dissemination activities of the Center,*
6 *taking into account—*

7 “(1) *the cost to Federal health programs;*

8 “(2) *consumer assessment of health care experi-*
9 *ence;*

10 “(3) *provider assessment of such processes or sys-*
11 *tems and opportunities to minimize distress and in-*
12 *jury to the health care workforce;*

13 “(4) *the potential impact of such processes or*
14 *systems on health status and function of patients, in-*
15 *cluding vulnerable populations including children;*

16 “(5) *the areas of insufficient evidence identified*
17 *under subsection (c)(2)(B); and*

18 “(6) *the evolution of meaningful use of health in-*
19 *formation technology, as defined in section 3000.*

20 “(f) *COORDINATION.—The Center shall coordinate its*
21 *activities with activities conducted by the Center for Medi-*
22 *care and Medicaid Innovation established under section*
23 *1115A of the Social Security Act.*

1 “(g) *FUNDING.*—*There is authorized to be appro-*
2 *priated to carry out this section \$20,000,000 for fiscal years*
3 *2010 through 2014.*

4 “**SEC. 934. QUALITY IMPROVEMENT TECHNICAL ASSIST-**
5 **ANCE AND IMPLEMENTATION.**

6 “(a) *IN GENERAL.*—*The Director, through the Center*
7 *for Quality Improvement and Patient Safety of the Agency*
8 *for Healthcare Research and Quality (referred to in this*
9 *section as the ‘Center’), shall award—*

10 “(1) *technical assistance grants or contracts to*
11 *eligible entities to provide technical support to insti-*
12 *tutions that deliver health care and health care pro-*
13 *viders (including rural and urban providers of serv-*
14 *ices and suppliers with limited infrastructure and fi-*
15 *nancial resources to implement and support quality*
16 *improvement activities, providers of services and sup-*
17 *pliers with poor performance scores, and providers of*
18 *services and suppliers for which there are disparities*
19 *in care among subgroups of patients) so that such in-*
20 *stitutions and providers understand, adapt, and im-*
21 *plement the models and practices identified in the re-*
22 *search conducted by the Center, including the Quality*
23 *Improvement Networks Research Program; and*

1 “(2) *implementation grants or contracts to eligi-*
2 *ble entities to implement the models and practices de-*
3 *scribed under paragraph (1).*

4 “(b) *ELIGIBLE ENTITIES.—*

5 “(1) *TECHNICAL ASSISTANCE AWARD.—To be eli-*
6 *gible to receive a technical assistance grant or con-*
7 *tract under subsection (a)(1), an entity—*

8 “(A) *may be a health care provider, health*
9 *care provider association, professional society,*
10 *health care worker organization, Indian health*
11 *organization, quality improvement organization,*
12 *patient safety organization, local quality im-*
13 *provement collaborative, the Joint Commission,*
14 *academic health center, university, physician-*
15 *based research network, primary care extension*
16 *program established under section 399W, a Fed-*
17 *eral Indian Health Service program or a health*
18 *program operated by an Indian tribe (as defined*
19 *in section 4 of the Indian Health Care Improve-*
20 *ment Act), or any other entity identified by the*
21 *Secretary; and*

22 “(B) *shall have demonstrated expertise in*
23 *providing information and technical support*
24 *and assistance to health care providers regarding*
25 *quality improvement.*

1 “(2) *IMPLEMENTATION AWARD.*—*To be eligible to*
2 *receive an implementation grant or contract under*
3 *subsection (a)(2), an entity—*

4 “(A) *may be a hospital or other health care*
5 *provider or consortium or providers, as deter-*
6 *mined by the Secretary; and*

7 “(B) *shall have demonstrated expertise in*
8 *providing information and technical support*
9 *and assistance to health care providers regarding*
10 *quality improvement.*

11 “(c) *APPLICATION.*—

12 “(1) *TECHNICAL ASSISTANCE AWARD.*—*To re-*
13 *ceive a technical assistance grant or contract under*
14 *subsection (a)(1), an eligible entity shall submit an*
15 *application to the Secretary at such time, in such*
16 *manner, and containing—*

17 “(A) *a plan for a sustainable business*
18 *model that may include a system of—*

19 “(i) *charging fees to institutions and*
20 *providers that receive technical support*
21 *from the entity; and*

22 “(ii) *reducing or eliminating such fees*
23 *for such institutions and providers that*
24 *serve low-income populations; and*

1 “(B) such other information as the Director
2 may require.

3 “(2) *IMPLEMENTATION AWARD.*—To receive a
4 grant or contract under subsection (a)(2), an eligible
5 entity shall submit an application to the Secretary at
6 such time, in such manner, and containing—

7 “(A) a plan for implementation of a model
8 or practice identified in the research conducted
9 by the Center including—

10 “(i) financial cost, staffing require-
11 ments, and timeline for implementation;
12 and

13 “(ii) pre- and projected post-implemen-
14 tation quality measure performance data in
15 targeted improvement areas identified by
16 the Secretary; and

17 “(B) such other information as the Director
18 may require.

19 “(d) *MATCHING FUNDS.*—The Director may not
20 award a grant or contract under this section to an entity
21 unless the entity agrees that it will make available (directly
22 or through contributions from other public or private enti-
23 ties) non-Federal contributions toward the activities to be
24 carried out under the grant or contract in an amount equal
25 to \$1 for each \$5 of Federal funds provided under the grant

1 *or contract. Such non-Federal matching funds may be pro-*
2 *vided directly or through donations from public or private*
3 *entities and may be in cash or in-kind, fairly evaluated,*
4 *including plant, equipment, or services.*

5 “(e) *EVALUATION.*—

6 “(1) *IN GENERAL.*—*The Director shall evaluate*
7 *the performance of each entity that receives a grant*
8 *or contract under this section. The evaluation of an*
9 *entity shall include a study of—*

10 “(A) *the success of such entity in achieving*
11 *the implementation, by the health care institu-*
12 *tions and providers assisted by such entity, of*
13 *the models and practices identified in the re-*
14 *search conducted by the Center under section*
15 *933;*

16 “(B) *the perception of the health care insti-*
17 *tutions and providers assisted by such entity re-*
18 *garding the value of the entity; and*

19 “(C) *where practicable, better patient health*
20 *outcomes and lower cost resulting from the as-*
21 *sistance provided by such entity.*

22 “(2) *EFFECT OF EVALUATION.*—*Based on the*
23 *outcome of the evaluation of the entity under para-*
24 *graph (1), the Director shall determine whether to*

1 *renew a grant or contract with such entity under this*
2 *section.*

3 “(f) *COORDINATION.*—*The entities that receive a grant*
4 *or contract under this section shall coordinate with health*
5 *information technology regional extension centers under*
6 *section 3012(c) and the primary care extension program*
7 *established under section 399W regarding the dissemination*
8 *of quality improvement, system delivery reform, and best*
9 *practices information.*”.

10 **SEC. 3502. ESTABLISHING COMMUNITY HEALTH TEAMS TO**
11 **SUPPORT THE PATIENT-CENTERED MEDICAL**
12 **HOME.**

13 (a) *IN GENERAL.*—*The Secretary of Health and*
14 *Human Services (referred to in this section as the “Sec-*
15 *retary”)* shall establish a program to provide grants to or
16 *enter into contracts with eligible entities to establish com-*
17 *munity-based interdisciplinary, interprofessional teams*
18 *(referred to in this section as “health teams”)* to support
19 *primary care practices, including obstetrics and gynecology*
20 *practices, within the hospital service areas served by the*
21 *eligible entities. Grants or contracts shall be used to—*

22 (1) *establish health teams to provide support*
23 *services to primary care providers; and*

24 (2) *provide capitated payments to primary care*
25 *providers as determined by the Secretary.*

1 **(b) ELIGIBLE ENTITIES.**—*To be eligible to receive a*
2 *grant or contract under subsection (a), an entity shall—*

3 **(1)(A)** *be a State or State-designated entity; or*

4 **(B)** *be an Indian tribe or tribal organization, as*
5 *defined in section 4 of the Indian Health Care Im-*
6 *provement Act;*

7 **(2)** *submit a plan for achieving long-term finan-*
8 *cial sustainability within 3 years;*

9 **(3)** *submit a plan for incorporating prevention*
10 *initiatives and patient education and care manage-*
11 *ment resources into the delivery of health care that is*
12 *integrated with community-based prevention and*
13 *treatment resources, where available;*

14 **(4)** *ensure that the health team established by the*
15 *entity includes an interdisciplinary, interprofessional*
16 *team of health care providers, as determined by the*
17 *Secretary; such team may include medical specialists,*
18 *nurses, pharmacists, nutritionists, dieticians, social*
19 *workers, behavioral and mental health providers (in-*
20 *cluding substance use disorder prevention and treat-*
21 *ment providers), doctors of chiropractic, licensed com-*
22 *plementary and alternative medicine practitioners,*
23 *and physicians' assistants;*

24 **(5)** *agree to provide services to eligible individ-*
25 *uals with chronic conditions, as described in section*

1 *1945 of the Social Security Act (as added by section*
2 *2703), in accordance with the payment methodology*
3 *established under subsection (c) of such section; and*

4 *(6) submit to the Secretary an application at*
5 *such time, in such manner, and containing such in-*
6 *formation as the Secretary may require.*

7 *(c) REQUIREMENTS FOR HEALTH TEAMS.—A health*
8 *team established pursuant to a grant or contract under sub-*
9 *section (a) shall—*

10 *(1) establish contractual agreements with pri-*
11 *mary care providers to provide support services;*

12 *(2) support patient-centered medical homes, de-*
13 *fined as a mode of care that includes—*

14 *(A) personal physicians;*

15 *(B) whole person orientation;*

16 *(C) coordinated and integrated care;*

17 *(D) safe and high-quality care through evi-*
18 *dence-informed medicine, appropriate use of*
19 *health information technology, and continuous*
20 *quality improvements;*

21 *(E) expanded access to care; and*

22 *(F) payment that recognizes added value*
23 *from additional components of patient-centered*
24 *care;*

1 (3) *collaborate with local primary care providers*
2 *and existing State and community based resources to*
3 *coordinate disease prevention, chronic disease man-*
4 *agement, transitioning between health care providers*
5 *and settings and case management for patients, in-*
6 *cluding children, with priority given to those ame-*
7 *nable to prevention and with chronic diseases or con-*
8 *ditions identified by the Secretary;*

9 (4) *in collaboration with local health care pro-*
10 *viders, develop and implement interdisciplinary,*
11 *interprofessional care plans that integrate clinical*
12 *and community preventive and health promotion*
13 *services for patients, including children, with a pri-*
14 *ority given to those amenable to prevention and with*
15 *chronic diseases or conditions identified by the Sec-*
16 *retary;*

17 (5) *incorporate health care providers, patients,*
18 *caregivers, and authorized representatives in program*
19 *design and oversight;*

20 (6) *provide support necessary for local primary*
21 *care providers to—*

22 (A) *coordinate and provide access to high-*
23 *quality health care services;*

24 (B) *coordinate and provide access to pre-*
25 *ventive and health promotion services;*

1 (C) provide access to appropriate specialty
2 care and inpatient services;

3 (D) provide quality-driven, cost-effective,
4 culturally appropriate, and patient- and family-
5 centered health care;

6 (E) provide access to pharmacist-delivered
7 medication management services, including
8 medication reconciliation;

9 (F) provide coordination of the appropriate
10 use of complementary and alternative (CAM)
11 services to those who request such services;

12 (G) promote effective strategies for treat-
13 ment planning, monitoring health outcomes and
14 resource use, sharing information, treatment de-
15 cision support, and organizing care to avoid du-
16 plication of service and other medical manage-
17 ment approaches intended to improve quality
18 and value of health care services;

19 (H) provide local access to the continuum of
20 health care services in the most appropriate set-
21 ting, including access to individuals that imple-
22 ment the care plans of patients and coordinate
23 care, such as integrative health care practi-
24 tioners;

1 (I) collect and report data that permits
2 evaluation of the success of the collaborative ef-
3 fort on patient outcomes, including collection of
4 data on patient experience of care, and identi-
5 fication of areas for improvement; and

6 (J) establish a coordinated system of early
7 identification and referral for children at risk
8 for developmental or behavioral problems such as
9 through the use of infolines, health information
10 technology, or other means as determined by the
11 Secretary;

12 (7) provide 24-hour care management and sup-
13 port during transitions in care settings including—

14 (A) a transitional care program that pro-
15 vides onsite visits from the care coordinator, as-
16 sists with the development of discharge plans and
17 medication reconciliation upon admission to and
18 discharge from the hospitals, nursing home, or
19 other institution setting;

20 (B) discharge planning and counseling sup-
21 port to providers, patients, caregivers, and au-
22 thorized representatives;

23 (C) assuring that post-discharge care plans
24 include medication management, as appropriate;

1 (D) referrals for mental and behavioral
2 health services, which may include the use of
3 infolines; and

4 (E) transitional health care needs from ado-
5 lescence to adulthood;

6 (8) serve as a liaison to community prevention
7 and treatment programs;

8 (9) demonstrate a capacity to implement and
9 maintain health information technology that meets
10 the requirements of certified EHR technology (as de-
11 fined in section 3000 of the Public Health Service Act
12 (42 U.S.C. 300jj)) to facilitate coordination among
13 members of the applicable care team and affiliated
14 primary care practices; and

15 (10) where applicable, report to the Secretary in-
16 formation on quality measures used under section
17 399JJ of the Public Health Service Act.

18 (d) *REQUIREMENT FOR PRIMARY CARE PROVIDERS.*—

19 A provider who contracts with a care team shall—

20 (1) provide a care plan to the care team for each
21 patient participant;

22 (2) provide access to participant health records;
23 and

24 (3) meet regularly with the care team to ensure
25 integration of care.

1 (e) *REPORTING TO SECRETARY.*—An entity that re-
2 ceives a grant or contract under subsection (a) shall submit
3 to the Secretary a report that describes and evaluates, as
4 requested by the Secretary, the activities carried out by the
5 entity under subsection (c).

6 (f) *DEFINITION OF PRIMARY CARE.*—In this section,
7 the term “primary care” means the provision of integrated,
8 accessible health care services by clinicians who are ac-
9 countable for addressing a large majority of personal health
10 care needs, developing a sustained partnership with pa-
11 tients, and practicing in the context of family and commu-
12 nity.

13 **SEC. 3503. MEDICATION MANAGEMENT SERVICES IN TREAT-**
14 **MENT OF CHRONIC DISEASE.**

15 Title IX of the Public Health Service Act (42 U.S.C.
16 299 *et seq.*), as amended by section 3501, is further amend-
17 ed by inserting after section 934 the following:

18 **“SEC. 935. GRANTS OR CONTRACTS TO IMPLEMENT MEDICA-**
19 **TION MANAGEMENT SERVICES IN TREAT-**
20 **MENT OF CHRONIC DISEASES.**

21 “(a) *IN GENERAL.*—The Secretary, acting through the
22 Patient Safety Research Center established in section 933
23 (referred to in this section as the ‘Center’), shall establish
24 a program to provide grants or contracts to eligible entities
25 to implement medication management (referred to in this

1 *section as ‘MTM’) services provided by licensed phar-*
2 *macists, as a collaborative, multidisciplinary, inter-profes-*
3 *sional approach to the treatment of chronic diseases for tar-*
4 *geted individuals, to improve the quality of care and reduce*
5 *overall cost in the treatment of such diseases. The Secretary*
6 *shall commence the program under this section not later*
7 *than May 1, 2010.*

8 “(b) *ELIGIBLE ENTITIES.—To be eligible to receive a*
9 *grant or contract under subsection (a), an entity shall—*

10 “(1) *provide a setting appropriate for MTM*
11 *services, as recommended by the experts described in*
12 *subsection (e);*

13 “(2) *submit to the Secretary a plan for achieving*
14 *long-term financial sustainability;*

15 “(3) *where applicable, submit a plan for coordi-*
16 *nating MTM services through local community health*
17 *teams established in section 3502 of the Patient Pro-*
18 *tection and Affordable Care Act or in collaboration*
19 *with primary care extension programs established in*
20 *section 399W;*

21 “(4) *submit a plan for meeting the requirements*
22 *under subsection (c); and*

23 “(5) *submit to the Secretary such other informa-*
24 *tion as the Secretary may require.*

1 “(c) *MTM SERVICES TO TARGETED INDIVIDUALS.*—
2 *The MTM services provided with the assistance of a grant*
3 *or contract awarded under subsection (a) shall, as allowed*
4 *by State law including applicable collaborative pharmacy*
5 *practice agreements, include—*

6 “(1) *performing or obtaining necessary assess-*
7 *ments of the health and functional status of each pa-*
8 *tient receiving such MTM services;*

9 “(2) *formulating a medication treatment plan*
10 *according to therapeutic goals agreed upon by the*
11 *prescriber and the patient or caregiver or authorized*
12 *representative of the patient;*

13 “(3) *selecting, initiating, modifying, recom-*
14 *mending changes to, or administering medication*
15 *therapy;*

16 “(4) *monitoring, which may include access to,*
17 *ordering, or performing laboratory assessments, and*
18 *evaluating the response of the patient to therapy, in-*
19 *cluding safety and effectiveness;*

20 “(5) *performing an initial comprehensive medi-*
21 *cation review to identify, resolve, and prevent medica-*
22 *tion-related problems, including adverse drug events,*
23 *quarterly targeted medication reviews for ongoing*
24 *monitoring, and additional followup interventions on*

1 *a schedule developed collaboratively with the pre-*
2 *scriber;*

3 *“(6) documenting the care delivered and commu-*
4 *nicating essential information about such care, in-*
5 *cluding a summary of the medication review, and the*
6 *recommendations of the pharmacist to other appro-*
7 *priate health care providers of the patient in a timely*
8 *fashion;*

9 *“(7) providing education and training designed*
10 *to enhance the understanding and appropriate use of*
11 *the medications by the patient, caregiver, and other*
12 *authorized representative;*

13 *“(8) providing information, support services,*
14 *and resources and strategies designed to enhance pa-*
15 *tient adherence with therapeutic regimens;*

16 *“(9) coordinating and integrating MTM services*
17 *within the broader health care management services*
18 *provided to the patient; and*

19 *“(10) such other patient care services allowed*
20 *under pharmacist scopes of practice in use in other*
21 *Federal programs that have implemented MTM serv-*
22 *ices.*

23 *“(d) TARGETED INDIVIDUALS.—MTM services pro-*
24 *vided by licensed pharmacists under a grant or contract*

1 *awarded under subsection (a) shall be offered to targeted*
2 *individuals who—*

3 “(1) *take 4 or more prescribed medications (in-*
4 *cluding over-the-counter medications and dietary sup-*
5 *plements);*

6 “(2) *take any ‘high risk’ medications;*

7 “(3) *have 2 or more chronic diseases, as identi-*
8 *fied by the Secretary; or*

9 “(4) *have undergone a transition of care, or*
10 *other factors, as determined by the Secretary, that are*
11 *likely to create a high risk of medication-related prob-*
12 *lems.*

13 “(e) *CONSULTATION WITH EXPERTS.—In designing*
14 *and implementing MTM services provided under grants or*
15 *contracts awarded under subsection (a), the Secretary shall*
16 *consult with Federal, State, private, public-private, and*
17 *academic entities, pharmacy and pharmacist organiza-*
18 *tions, health care organizations, consumer advocates, chron-*
19 *ic disease groups, and other stakeholders involved with the*
20 *research, dissemination, and implementation of phar-*
21 *macist-delivered MTM services, as the Secretary determines*
22 *appropriate. The Secretary, in collaboration with this*
23 *group, shall determine whether it is possible to incorporate*
24 *rapid cycle process improvement concepts in use in other*
25 *Federal programs that have implemented MTM services.*

1 “(f) *REPORTING TO THE SECRETARY.*—An entity that
2 receives a grant or contract under subsection (a) shall sub-
3 mit to the Secretary a report that describes and evaluates,
4 as requested by the Secretary, the activities carried out
5 under subsection (c), including quality measures endorsed
6 by the entity with a contract under section 1890 of the So-
7 cial Security Act, as determined by the Secretary.

8 “(g) *EVALUATION AND REPORT.*—The Secretary shall
9 submit to the relevant committees of Congress a report
10 which shall—

11 “(1) assess the clinical effectiveness of phar-
12 macist-provided services under the MTM services pro-
13 gram, as compared to usual care, including an eval-
14 uation of whether enrollees maintained better health
15 with fewer hospitalizations and emergency room visits
16 than similar patients not enrolled in the program;

17 “(2) assess changes in overall health care re-
18 source use by targeted individuals;

19 “(3) assess patient and prescriber satisfaction
20 with MTM services;

21 “(4) assess the impact of patient-cost sharing re-
22 quirements on medication adherence and rec-
23 ommendations for modifications;

24 “(5) identify and evaluate other factors that may
25 impact clinical and economic outcomes, including de-

1 *mographic characteristics, clinical characteristics,*
2 *and health services use of the patient, as well as char-*
3 *acteristics of the regimen, pharmacy benefit, and*
4 *MTM services provided; and*

5 *“(6) evaluate the extent to which participating*
6 *pharmacists who maintain a dispensing role have a*
7 *conflict of interest in the provision of MTM services,*
8 *and if such conflict is found, provide recommenda-*
9 *tions on how such a conflict might be appropriately*
10 *addressed.*

11 *“(h) GRANTS OR CONTRACTS TO FUND DEVELOPMENT*
12 *OF PERFORMANCE MEASURES.—The Secretary may,*
13 *through the quality measure development program under*
14 *section 931 of the Public Health Service Act, award grants*
15 *or contracts to eligible entities for the purpose of funding*
16 *the development of performance measures that assess the use*
17 *and effectiveness of medication therapy management serv-*
18 *ices.”.*

19 **SEC. 3504. DESIGN AND IMPLEMENTATION OF REGIONAL-**
20 **IZED SYSTEMS FOR EMERGENCY CARE.**

21 *(a) IN GENERAL.—Title XII of the Public Health Serv-*
22 *ice Act (42 U.S.C. 300d et seq.) is amended—*

23 *(1) in section 1203—*

1 (A) *in the section heading, by inserting*
 2 “**FOR TRAUMA SYSTEMS**” *after* “**GRANTS**”;
 3 *and*

4 (B) *in subsection (a), by striking* “*Adminis-*
 5 *trator of the Health Resources and Services Ad-*
 6 *ministration*” *and inserting* “*Assistant Sec-*
 7 *retary for Preparedness and Response*”;

8 (2) *by inserting after section 1203 the following:*

9 “**SEC. 1204. COMPETITIVE GRANTS FOR REGIONALIZED SYS-**
 10 **TEMS FOR EMERGENCY CARE RESPONSE.**”

11 “(a) *IN GENERAL.—The Secretary, acting through the*
 12 *Assistant Secretary for Preparedness and Response, shall*
 13 *award not fewer than 4 multiyear contracts or competitive*
 14 *grants to eligible entities to support pilot projects that de-*
 15 *sign, implement, and evaluate innovative models of region-*
 16 *alized, comprehensive, and accountable emergency care and*
 17 *trauma systems.*”

18 “(b) *ELIGIBLE ENTITY; REGION.—In this section:*

19 “(1) *ELIGIBLE ENTITY.—The term ‘eligible enti-*
 20 *ty’ means—*

21 “(A) *a State or a partnership of 1 or more*
 22 *States and 1 or more local governments; or*

23 “(B) *an Indian tribe (as defined in section*
 24 *4 of the Indian Health Care Improvement Act)*
 25 *or a partnership of 1 or more Indian tribes.*”

1 “(2) *REGION*.—The term ‘region’ means an area
2 within a State, an area that lies within multiple
3 States, or a similar area (such as a multicounty
4 area), as determined by the Secretary.

5 “(3) *EMERGENCY SERVICES*.—The term ‘emer-
6 gency services’ includes acute, prehospital, and trau-
7 ma care.

8 “(c) *PILOT PROJECTS*.—The Secretary shall award a
9 contract or grant under subsection (a) to an eligible entity
10 that proposes a pilot project to design, implement, and
11 evaluate an emergency medical and trauma system that—

12 “(1) coordinates with public health and safety
13 services, emergency medical services, medical facili-
14 ties, trauma centers, and other entities in a region to
15 develop an approach to emergency medical and trau-
16 ma system access throughout the region, including 9-
17 1-1 Public Safety Answering Points and emergency
18 medical dispatch;

19 “(2) includes a mechanism, such as a regional
20 medical direction or transport communications sys-
21 tem, that operates throughout the region to ensure
22 that the patient is taken to the medically appropriate
23 facility (whether an initial facility or a higher-level
24 facility) in a timely fashion;

1 “(3) allows for the tracking of prehospital and
2 hospital resources, including inpatient bed capacity,
3 emergency department capacity, trauma center capac-
4 ity, on-call specialist coverage, ambulance diversion
5 status, and the coordination of such tracking with re-
6 gional communications and hospital destination deci-
7 sions; and

8 “(4) includes a consistent region-wide
9 prehospital, hospital, and interfacility data manage-
10 ment system that—

11 “(A) submits data to the National EMS In-
12 formation System, the National Trauma Data
13 Bank, and others;

14 “(B) reports data to appropriate Federal
15 and State databanks and registries; and

16 “(C) contains information sufficient to
17 evaluate key elements of prehospital care, hos-
18 pital destination decisions, including initial hos-
19 pital and interfacility decisions, and relevant
20 health outcomes of hospital care.

21 “(d) APPLICATION.—

22 “(1) IN GENERAL.—An eligible entity that seeks
23 a contract or grant described in subsection (a) shall
24 submit to the Secretary an application at such time
25 and in such manner as the Secretary may require.

1 “(2) *APPLICATION INFORMATION.*—*Each appli-*
2 *cation shall include—*

3 “(A) *an assurance from the eligible entity*
4 *that the proposed system—*

5 “(i) *has been coordinated with the ap-*
6 *plicable State Office of Emergency Medical*
7 *Services (or equivalent State office);*

8 “(ii) *includes consistent indirect and*
9 *direct medical oversight of prehospital, hos-*
10 *pital, and interfacility transport throughout*
11 *the region;*

12 “(iii) *coordinates prehospital treat-*
13 *ment and triage, hospital destination, and*
14 *interfacility transport throughout the re-*
15 *gion;*

16 “(iv) *includes a categorization or des-*
17 *ignation system for special medical facili-*
18 *ties throughout the region that is integrated*
19 *with transport and destination protocols;*

20 “(v) *includes a regional medical direc-*
21 *tion, patient tracking, and resource alloca-*
22 *tion system that supports day-to-day emer-*
23 *gency care and surge capacity and is inte-*
24 *grated with other components of the na-*

1 *tional and State emergency preparedness*
2 *system; and*

3 *“(vi) addresses pediatric concerns re-*
4 *lated to integration, planning, prepared-*
5 *ness, and coordination of emergency med-*
6 *ical services for infants, children and ado-*
7 *lescents; and*

8 *“(B) such other information as the Sec-*
9 *retary may require.*

10 *“(e) REQUIREMENT OF MATCHING FUNDS.—*

11 *“(1) IN GENERAL.—The Secretary may not make*
12 *a grant under this section unless the State (or con-*
13 *sortia of States) involved agrees, with respect to the*
14 *costs to be incurred by the State (or consortia) in car-*
15 *rying out the purpose for which such grant was made,*
16 *to make available non-Federal contributions (in cash*
17 *or in kind under paragraph (2)) toward such costs in*
18 *an amount equal to not less than \$1 for each \$3 of*
19 *Federal funds provided in the grant. Such contribu-*
20 *tions may be made directly or through donations from*
21 *public or private entities.*

22 *“(2) NON-FEDERAL CONTRIBUTIONS.—Non-Fed-*
23 *eral contributions required in paragraph (1) may be*
24 *in cash or in kind, fairly evaluated, including equip-*
25 *ment or services (and excluding indirect or overhead*

1 *costs). Amounts provided by the Federal Government,*
2 *or services assisted or subsidized to any significant*
3 *extent by the Federal Government, may not be in-*
4 *cluded in determining the amount of such non-Fed-*
5 *eral contributions.*

6 “(f) *PRIORITY.—The Secretary shall give priority for*
7 *the award of the contracts or grants described in subsection*
8 *(a) to any eligible entity that serves a population in a*
9 *medically underserved area (as defined in section*
10 *330(b)(3)).*

11 “(g) *REPORT.—Not later than 90 days after the com-*
12 *pletion of a pilot project under subsection (a), the recipient*
13 *of such contract or grant described in shall submit to the*
14 *Secretary a report containing the results of an evaluation*
15 *of the program, including an identification of—*

16 “(1) *the impact of the regional, accountable*
17 *emergency care and trauma system on patient health*
18 *outcomes for various critical care categories, such as*
19 *trauma, stroke, cardiac emergencies, neurological*
20 *emergencies, and pediatric emergencies;*

21 “(2) *the system characteristics that contribute to*
22 *the effectiveness and efficiency of the program (or lack*
23 *thereof);*

1 “(3) *methods of assuring the long-term financial*
2 *sustainability of the emergency care and trauma sys-*
3 *tem;*

4 “(4) *the State and local legislation necessary to*
5 *implement and to maintain the system;*

6 “(5) *the barriers to developing regionalized, ac-*
7 *countable emergency care and trauma systems, as*
8 *well as the methods to overcome such barriers; and*

9 “(6) *recommendations on the utilization of avail-*
10 *able funding for future regionalization efforts.*

11 “(h) *DISSEMINATION OF FINDINGS.—The Secretary*
12 *shall, as appropriate, disseminate to the public and to the*
13 *appropriate Committees of the Congress, the information*
14 *contained in a report made under subsection (g).”;* and

15 (3) *in section 1232—*

16 (A) *in subsection (a), by striking “appro-*
17 *priated” and all that follows through the period*
18 *at the end and inserting “appropriated*
19 *\$24,000,000 for each of fiscal years 2010 through*
20 *2014.”;* and

21 (B) *by inserting after subsection (c) the fol-*
22 *lowing:*

23 “(d) *AUTHORITY.—For the purpose of carrying out*
24 *parts A through C, beginning on the date of enactment of*
25 *the Patient Protection and Affordable Care Act, the Sec-*

1 *retary shall transfer authority in administering grants and*
2 *related authorities under such parts from the Administrator*
3 *of the Health Resources and Services Administration to the*
4 *Assistant Secretary for Preparedness and Response.”.*

5 (b) *SUPPORT FOR EMERGENCY MEDICINE RE-*
6 *SEARCH.—Part H of title IV of the Public Health Service*
7 *Act (42 U.S.C. 289 et seq.) is amended by inserting after*
8 *the section 498C the following:*

9 **“SEC. 498D. SUPPORT FOR EMERGENCY MEDICINE RE-**
10 **SEARCH.**

11 *“(a) EMERGENCY MEDICAL RESEARCH.—The Sec-*
12 *retary shall support Federal programs administered by the*
13 *National Institutes of Health, the Agency for Healthcare*
14 *Research and Quality, the Health Resources and Services*
15 *Administration, the Centers for Disease Control and Pre-*
16 *vention, and other agencies involved in improving the emer-*
17 *gency care system to expand and accelerate research in*
18 *emergency medical care systems and emergency medicine,*
19 *including—*

20 *“(1) the basic science of emergency medicine;*

21 *“(2) the model of service delivery and the compo-*
22 *nents of such models that contribute to enhanced pa-*
23 *tient health outcomes;*

24 *“(3) the translation of basic scientific research*
25 *into improved practice; and*

1 “(4) the development of timely and efficient de-
2 livery of health services.

3 “(b) *PEDIATRIC EMERGENCY MEDICAL RESEARCH.*—
4 *The Secretary shall support Federal programs administered*
5 *by the National Institutes of Health, the Agency for*
6 *Healthcare Research and Quality, the Health Resources and*
7 *Services Administration, the Centers for Disease Control*
8 *and Prevention, and other agencies to coordinate and ex-*
9 *pand research in pediatric emergency medical care systems*
10 *and pediatric emergency medicine, including—*

11 “(1) an examination of the gaps and opportuni-
12 ties in pediatric emergency care research and a strat-
13 egy for the optimal organization and funding of such
14 research;

15 “(2) the role of pediatric emergency services as
16 an integrated component of the overall health system;

17 “(3) system-wide pediatric emergency care plan-
18 ning, preparedness, coordination, and funding;

19 “(4) pediatric training in professional edu-
20 cation; and

21 “(5) research in pediatric emergency care, spe-
22 cifically on the efficacy, safety, and health outcomes
23 of medications used for infants, children, and adoles-
24 cents in emergency care settings in order to improve
25 patient safety.

1 “(c) *IMPACT RESEARCH.*—*The Secretary shall support*
2 *research to determine the estimated economic impact of, and*
3 *savings that result from, the implementation of coordinated*
4 *emergency care systems.*

5 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
6 *are authorized to be appropriated to carry out this section*
7 *such sums as may be necessary for each of fiscal years 2010*
8 *through 2014.”.*

9 **SEC. 3505. TRAUMA CARE CENTERS AND SERVICE AVAIL-**
10 **ABILITY.**

11 (a) *TRAUMA CARE CENTERS.*—

12 (1) *GRANTS FOR TRAUMA CARE CENTERS.*—*Sec-*
13 *tion 1241 of the Public Health Service Act (42 U.S.C.*
14 *300d–41) is amended by striking subsections (a) and*
15 *(b) and inserting the following:*

16 “(a) *IN GENERAL.*—*The Secretary shall establish 3*
17 *programs to award grants to qualified public, nonprofit In-*
18 *dian Health Service, Indian tribal, and urban Indian trau-*
19 *ma centers—*

20 “(1) *to assist in defraying substantial uncom-*
21 *pensated care costs;*

22 “(2) *to further the core missions of such trauma*
23 *centers, including by addressing costs associated with*
24 *patient stabilization and transfer, trauma education*
25 *and outreach, coordination with local and regional*

1 *trauma systems, essential personnel and other fixed*
2 *costs, and expenses associated with employee and non-*
3 *employee physician services; and*

4 “(3) *to provide emergency relief to ensure the*
5 *continued and future availability of trauma services.*

6 “(b) *MINIMUM QUALIFICATIONS OF TRAUMA CEN-*
7 *TERS.—*

8 “(1) *PARTICIPATION IN TRAUMA CARE SYSTEM*
9 *OPERATING UNDER CERTAIN PROFESSIONAL GUIDE-*
10 *LINES.—Except as provided in paragraph (2), the*
11 *Secretary may not award a grant to a trauma center*
12 *under subsection (a) unless the trauma center is a*
13 *participant in a trauma system that substantially*
14 *complies with section 1213.*

15 “(2) *EXEMPTION.—Paragraph (1) shall not*
16 *apply to trauma centers that are located in States*
17 *with no existing trauma care system.*

18 “(3) *QUALIFICATION FOR SUBSTANTIAL UNCOM-*
19 *PENSATED CARE COSTS.—The Secretary shall award*
20 *substantial uncompensated care grants under sub-*
21 *section (a)(1) only to trauma centers meeting at least*
22 *1 of the criteria in 1 of the following 3 categories:*

23 “(A) *CATEGORY A.—The criteria for cat-*
24 *egory A are as follows:*

1 “(i) *At least 40 percent of the visits in*
2 *the emergency department of the hospital in*
3 *which the trauma center is located were*
4 *charity or self-pay patients.*

5 “(ii) *At least 50 percent of the visits in*
6 *such emergency department were Medicaid*
7 *(under title XIX of the Social Security Act*
8 *(42 U.S.C. 1396 et seq.)) and charity and*
9 *self-pay patients combined.*

10 “(B) *CATEGORY B.—The criteria for cat-*
11 *egory B are as follows:*

12 “(i) *At least 35 percent of the visits in*
13 *the emergency department were charity or*
14 *self-pay patients.*

15 “(ii) *At least 50 percent of the visits in*
16 *the emergency department were Medicaid*
17 *and charity and self-pay patients combined.*

18 “(C) *CATEGORY C.—The criteria for cat-*
19 *egory C are as follows:*

20 “(i) *At least 20 percent of the visits in*
21 *the emergency department were charity or*
22 *self-pay patients.*

23 “(ii) *At least 30 percent of the visits in*
24 *the emergency department were Medicaid*
25 *and charity and self-pay patients combined.*

1 “(4) *TRAUMA CENTERS IN 1115 WAIVER*
2 *STATES.—Notwithstanding paragraph (3), the Sec-*
3 *retary may award a substantial uncompensated care*
4 *grant to a trauma center under subsection (a)(1) if*
5 *the trauma center qualifies for funds under a Low In-*
6 *come Pool or Safety Net Care Pool established through*
7 *a waiver approved under section 1115 of the Social*
8 *Security Act (42 U.S.C. 1315).*

9 “(5) *DESIGNATION.—The Secretary may not*
10 *award a grant to a trauma center unless such trauma*
11 *center is verified by the American College of Surgeons*
12 *or designated by an equivalent State or local agency.*

13 “(c) *ADDITIONAL REQUIREMENTS.—The Secretary*
14 *may not award a grant to a trauma center under subsection*
15 *(a)(1) unless such trauma center—*

16 *“(1) submits to the Secretary a plan satisfactory*
17 *to the Secretary that demonstrates a continued com-*
18 *mitment to serving trauma patients regardless of*
19 *their ability to pay; and*

20 *“(2) has policies in place to assist patients who*
21 *cannot pay for part or all of the care they receive, in-*
22 *cluding a sliding fee scale, and to ensure fair billing*
23 *and collection practices.”.*

24 “(2) *CONSIDERATIONS IN MAKING GRANTS.—Sec-*
25 *tion 1242 of the Public Health Service Act (42 U.S.C.*

1 300d-42) is amended by striking subsections (a) and
2 (b) and inserting the following:

3 “(a) *SUBSTANTIAL UNCOMPENSATED CARE*
4 *AWARDS.—*

5 “(1) *IN GENERAL.—The Secretary shall establish*
6 *an award basis for each eligible trauma center for*
7 *grants under section 1241(a)(1) according to the per-*
8 *centage described in paragraph (2), subject to the re-*
9 *quirements of section 1241(b)(3).*

10 “(2) *PERCENTAGES.—The applicable percentages*
11 *are as follows:*

12 “(A) *With respect to a category A trauma*
13 *center, 100 percent of the uncompensated care*
14 *costs.*

15 “(B) *With respect to a category B trauma*
16 *center, not more than 75 percent of the uncom-*
17 *pensated care costs.*

18 “(C) *With respect to a category C trauma*
19 *center, not more than 50 percent of the uncom-*
20 *pensated care costs.*

21 “(b) *CORE MISSION AWARDS.—*

22 “(1) *IN GENERAL.—In awarding grants under*
23 *section 1241(a)(2), the Secretary shall—*

1 “(A) reserve 25 percent of the amount allo-
2 cated for core mission awards for Level III and
3 Level IV trauma centers; and

4 “(B) reserve 25 percent of the amount allo-
5 cated for core mission awards for large urban
6 Level I and II trauma centers—

7 “(i) that have at least 1 graduate med-
8 ical education fellowship in trauma or
9 trauma related specialties for which de-
10 mand is exceeding supply;

11 “(ii) for which—

12 “(I) annual uncompensated care
13 costs exceed \$10,000,000; or

14 “(II) at least 20 percent of emer-
15 gency department visits are charity or
16 self-pay or Medicaid patients; and

17 “(iii) that are not eligible for substan-
18 tial uncompensated care awards under sec-
19 tion 1241(a)(1).

20 “(c) *EMERGENCY AWARDS*.—*In awarding grants*
21 *under section 1241(a)(3), the Secretary shall—*

22 “(1) give preference to any application submitted
23 by a trauma center that provides trauma care in a
24 geographic area in which the availability of trauma
25 care has significantly decreased or will significantly

1 *decrease if the center is forced to close or downgrade*
2 *service or growth in demand for trauma services ex-*
3 *ceeds capacity; and*

4 “(2) *reallocate any emergency awards funds not*
5 *obligated due to insufficient, or a lack of qualified,*
6 *applications to the significant uncompensated care*
7 *award program.”.*

8 (3) *CERTAIN AGREEMENTS.—Section 1243 of the*
9 *Public Health Service Act (42 U.S.C. 300d–43) is*
10 *amended by striking subsections (a), (b), and (c) and*
11 *inserting the following:*

12 “(a) *MAINTENANCE OF FINANCIAL SUPPORT.—The*
13 *Secretary may require a trauma center receiving a grant*
14 *under section 1241(a) to maintain access to trauma services*
15 *at comparable levels to the prior year during the grant pe-*
16 *riod.*

17 “(b) *TRAUMA CARE REGISTRY.—The Secretary may*
18 *require the trauma center receiving a grant under section*
19 *1241(a) to provide data to a national and centralized reg-*
20 *istry of trauma cases, in accordance with guidelines devel-*
21 *oped by the American College of Surgeons, and as the Sec-*
22 *retary may otherwise require.”.*

23 (4) *GENERAL PROVISIONS.—Section 1244 of the*
24 *Public Health Service Act (42 U.S.C. 300d–44) is*

1 *amended by striking subsections (a), (b), and (c) and*
2 *inserting the following:*

3 *“(a) APPLICATION.—The Secretary may not award a*
4 *grant to a trauma center under section 1241(a) unless such*
5 *center submits an application for the grant to the Secretary*
6 *and the application is in such form, is made in such man-*
7 *ner, and contains such agreements, assurances, and infor-*
8 *mation as the Secretary determines to be necessary to carry*
9 *out this part.*

10 *“(b) LIMITATION ON DURATION OF SUPPORT.—The pe-*
11 *riod during which a trauma center receives payments under*
12 *a grant under section 1241(a)(3) shall be for 3 fiscal years,*
13 *except that the Secretary may waive such requirement for*
14 *a center and authorize such center to receive such payments*
15 *for 1 additional fiscal year.*

16 *“(c) LIMITATION ON AMOUNT OF GRANT.—Notwith-*
17 *standing section 1242(a), a grant under section 1241 may*
18 *not be made in an amount exceeding \$2,000,000 for each*
19 *fiscal year.*

20 *“(d) ELIGIBILITY.—Except as provided in section*
21 *1242(b)(1)(B)(iii), acquisition of, or eligibility for, a grant*
22 *under section 1241(a) shall not preclude a trauma center*
23 *from being eligible for other grants described in such sec-*
24 *tion.*

1 “(e) *FUNDING DISTRIBUTION.*—Of the total amount
2 appropriated for a fiscal year under section 1245, 70 per-
3 cent shall be used for substantial uncompensated care
4 awards under section 1241(a)(1), 20 percent shall be used
5 for core mission awards under section 1241(a)(2), and 10
6 percent shall be used for emergency awards under section
7 1241(a)(3).

8 “(f) *MINIMUM ALLOWANCE.*—Notwithstanding sub-
9 section (e), if the amount appropriated for a fiscal year
10 under section 1245 is less than \$25,000,000, all available
11 funding for such fiscal year shall be used for substantial
12 uncompensated care awards under section 1241(a)(1).

13 “(g) *SUBSTANTIAL UNCOMPENSATED CARE AWARD*
14 *DISTRIBUTION AND PROPORTIONAL SHARE.*—Notwith-
15 standing section 1242(a), of the amount appropriated for
16 substantial uncompensated care grants for a fiscal year, the
17 Secretary shall—

18 “(1) make available—

19 “(A) 50 percent of such funds for category
20 A trauma center grantees;

21 “(B) 35 percent of such funds for category
22 B trauma center grantees; and

23 “(C) 15 percent of such funds for category
24 C trauma center grantees; and

1 “(2) provide available funds within each cat-
2 egory in a manner proportional to the award basis
3 specified in section 1242(a)(2) to each eligible trauma
4 center.

5 “(h) *REPORT.*—Beginning 2 years after the date of en-
6 actment of the Patient Protection and Affordable Care Act,
7 and every 2 years thereafter, the Secretary shall biennially
8 report to Congress regarding the status of the grants made
9 under section 1241 and on the overall financial stability
10 of trauma centers.”.

11 (5) *AUTHORIZATION OF APPROPRIATIONS.*—Sec-
12 tion 1245 of the Public Health Service Act (42 U.S.C.
13 300d–45) is amended to read as follows:

14 **“SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.**

15 *“For the purpose of carrying out this part, there are*
16 *authorized to be appropriated \$100,000,000 for fiscal year*
17 *2009, and such sums as may be necessary for each of fiscal*
18 *years 2010 through 2015. Such authorization of appropria-*
19 *tions is in addition to any other authorization of appropria-*
20 *tions or amounts that are available for such purpose.”.*

21 (6) *DEFINITION.*—Part D of title XII of the Pub-
22 lic Health Service Act (42 U.S.C. 300d–41 et seq.) is
23 amended by adding at the end the following:

1 **“SEC. 1246. DEFINITION.**

2 *“In this part, the term ‘uncompensated care costs’*
3 *means unreimbursed costs from serving self-pay, charity,*
4 *or Medicaid patients, without regard to payment under sec-*
5 *tion 1923 of the Social Security Act, all of which are attrib-*
6 *utable to emergency care and trauma care, including costs*
7 *related to subsequent inpatient admissions to the hospital.”.*

8 **(b) TRAUMA SERVICE AVAILABILITY.**—*Title XII of the*
9 *Public Health Service Act (42 U.S.C. 300d et seq.) is*
10 *amended by adding at the end the following:*

11 **“PART H—TRAUMA SERVICE AVAILABILITY**

12 **“SEC. 1281. GRANTS TO STATES.**

13 **“(a) ESTABLISHMENT.**—*To promote universal access*
14 *to trauma care services provided by trauma centers and*
15 *trauma-related physician specialties, the Secretary shall*
16 *provide funding to States to enable such States to award*
17 *grants to eligible entities for the purposes described in this*
18 *section.*

19 **“(b) AWARDING OF GRANTS BY STATES.**—*Each State*
20 *may award grants to eligible entities within the State for*
21 *the purposes described in subparagraph (d).*

22 **“(c) ELIGIBILITY.**—

23 **“(1) IN GENERAL.**—*To be eligible to receive a*
24 *grant under subsection (b) an entity shall—*

25 **“(A) be—**

1 “(i) a public or nonprofit trauma cen-
2 ter or consortium thereof that meets that re-
3 quirements of paragraphs (1), (2), and (5)
4 of section 1241(b);

5 “(ii) a safety net public or nonprofit
6 trauma center that meets the requirements
7 of paragraphs (1) through (5) of section
8 1241(b); or

9 “(iii) a hospital in an underserved
10 area (as defined by the State) that seeks to
11 establish new trauma services; and

12 “(B) submit to the State an application at
13 such time, in such manner, and containing such
14 information as the State may require.

15 “(2) *LIMITATION.*—A State shall use at least 40
16 percent of the amount available to the State under
17 this part for a fiscal year to award grants to safety
18 net trauma centers described in paragraph (1)(A)(ii).

19 “(d) *USE OF FUNDS.*—The recipient of a grant under
20 subsection (b) shall carry out 1 or more of the following
21 activities consistent with subsection (b):

22 “(1) Providing trauma centers with funding to
23 support physician compensation in trauma-related
24 physician specialties where shortages exist in the re-

1 *gion involved, with priority provided to safety net*
2 *trauma centers described in subsection (c)(1)(A)(ii).*

3 *“(2) Providing for individual safety net trauma*
4 *center fiscal stability and costs related to having serv-*
5 *ice that is available 24 hours a day, 7 days a week,*
6 *with priority provided to safety net trauma centers*
7 *described in subsection (c)(1)(A)(ii) located in urban,*
8 *border, and rural areas.*

9 *“(3) Reducing trauma center overcrowding at*
10 *specific trauma centers related to throughput of trau-*
11 *ma patients.*

12 *“(4) Establishing new trauma services in under-*
13 *served areas as defined by the State.*

14 *“(5) Enhancing collaboration between trauma*
15 *centers and other hospitals and emergency medical*
16 *services personnel related to trauma service avail-*
17 *ability.*

18 *“(6) Making capital improvements to enhance*
19 *access and expedite trauma care, including providing*
20 *helipads and associated safety infrastructure.*

21 *“(7) Enhancing trauma surge capacity at spe-*
22 *cific trauma centers.*

23 *“(8) Ensuring expedient receipt of trauma pa-*
24 *tients transported by ground or air to the appropriate*
25 *trauma center.*

1 “(9) *Enhancing interstate trauma center collabor-*
2 *ation.*

3 “(e) *LIMITATION.—*

4 “(1) *IN GENERAL.—A State may use not more*
5 *than 20 percent of the amount available to the State*
6 *under this part for a fiscal year for administrative*
7 *costs associated with awarding grants and related*
8 *costs.*

9 “(2) *MAINTENANCE OF EFFORT.—The Secretary*
10 *may not provide funding to a State under this part*
11 *unless the State agrees that such funds will be used*
12 *to supplement and not supplant State funding other-*
13 *wise available for the activities and costs described in*
14 *this part.*

15 “(f) *DISTRIBUTION OF FUNDS.—The following shall*
16 *apply with respect to grants provided in this part:*

17 “(1) *LESS THAN \$10,000,000.—If the amount of*
18 *appropriations for this part in a fiscal year is less*
19 *than \$10,000,000, the Secretary shall divide such*
20 *funding evenly among only those States that have 1*
21 *or more trauma centers eligible for funding under sec-*
22 *tion 1241(b)(3)(A).*

23 “(2) *LESS THAN \$20,000,000.—If the amount of*
24 *appropriations in a fiscal year is less than*
25 *\$20,000,000, the Secretary shall divide such funding*

1 *evenly among only those States that have 1 or more*
2 *trauma centers eligible for funding under subpara-*
3 *graphs (A) and (B) of section 1241(b)(3).*

4 “(3) *LESS THAN \$30,000,000.—If the amount of*
5 *appropriations for this part in a fiscal year is less*
6 *than \$30,000,000, the Secretary shall divide such*
7 *funding evenly among only those States that have 1*
8 *or more trauma centers eligible for funding under sec-*
9 *tion 1241(b)(3).*

10 “(4) *\$30,000,000 OR MORE.—If the amount of*
11 *appropriations for this part in a fiscal year is*
12 *\$30,000,000 or more, the Secretary shall divide such*
13 *funding evenly among all States.*

14 **“SEC. 1282. AUTHORIZATION OF APPROPRIATIONS.**

15 *“For the purpose of carrying out this part, there is*
16 *authorized to be appropriated \$100,000,000 for each of fis-*
17 *cal years 2010 through 2015.”.*

18 **SEC. 3506. PROGRAM TO FACILITATE SHARED DECISION-**
19 **MAKING.**

20 *Part D of title IX of the Public Health Service Act,*
21 *as amended by section 3503, is further amended by adding*
22 *at the end the following:*

1 **“SEC. 936. PROGRAM TO FACILITATE SHARED DECISION-**
2 **MAKING.**

3 “(a) *PURPOSE.*—*The purpose of this section is to fa-*
4 *ilitate collaborative processes between patients, caregivers*
5 *or authorized representatives, and clinicians that engages*
6 *the patient, caregiver or authorized representative in deci-*
7 *sionmaking, provides patients, caregivers or authorized rep-*
8 *resentatives with information about trade-offs among treat-*
9 *ment options, and facilitates the incorporation of patient*
10 *preferences and values into the medical plan.*

11 “(b) *DEFINITIONS.*—*In this section:*

12 “(1) *PATIENT DECISION AID.*—*The term ‘patient*
13 *decision aid’ means an educational tool that helps pa-*
14 *tients, caregivers or authorized representatives under-*
15 *stand and communicate their beliefs and preferences*
16 *related to their treatment options, and to decide with*
17 *their health care provider what treatments are best for*
18 *them based on their treatment options, scientific evi-*
19 *dence, circumstances, beliefs, and preferences.*

20 “(2) *PREFERENCE SENSITIVE CARE.*—*The term*
21 *‘preference sensitive care’ means medical care for*
22 *which the clinical evidence does not clearly support*
23 *one treatment option such that the appropriate course*
24 *of treatment depends on the values of the patient or*
25 *the preferences of the patient, caregivers or authorized*
26 *representatives regarding the benefits, harms and sci-*

1 *entific evidence for each treatment option, the use of*
2 *such care should depend on the informed patient*
3 *choice among clinically appropriate treatment op-*
4 *tions.*

5 “(c) *ESTABLISHMENT OF INDEPENDENT STANDARDS*
6 *FOR PATIENT DECISION AIDS FOR PREFERENCE SENSITIVE*
7 *CARE.—*

8 “(1) *CONTRACT WITH ENTITY TO ESTABLISH*
9 *STANDARDS AND CERTIFY PATIENT DECISION AIDS.—*

10 “(A) *IN GENERAL.—For purposes of sup-*
11 *porting consensus-based standards for patient de-*
12 *cision aids for preference sensitive care and a*
13 *certification process for patient decision aids for*
14 *use in the Federal health programs and by other*
15 *interested parties, the Secretary shall have in ef-*
16 *fect a contract with the entity with a contract*
17 *under section 1890 of the Social Security Act.*
18 *Such contract shall provide that the entity per-*
19 *form the duties described in paragraph (2).*

20 “(B) *TIMING FOR FIRST CONTRACT.—As*
21 *soon as practicable after the date of the enact-*
22 *ment of this section, the Secretary shall enter*
23 *into the first contract under subparagraph (A).*

24 “(C) *PERIOD OF CONTRACT.—A contract*
25 *under subparagraph (A) shall be for a period of*

1 18 months (except such contract may be renewed
2 after a subsequent bidding process).

3 “(2) *DUTIES.*—*The following duties are de-*
4 *scribed in this paragraph:*

5 “(A) *DEVELOP AND IDENTIFY STANDARDS*
6 *FOR PATIENT DECISION AIDS.*—*The entity shall*
7 *synthesize evidence and convene a broad range of*
8 *experts and key stakeholders to develop and iden-*
9 *tify consensus-based standards to evaluate pa-*
10 *tient decision aids for preference sensitive care.*

11 “(B) *ENDORSE PATIENT DECISION AIDS.*—
12 *The entity shall review patient decision aids and*
13 *develop a certification process whether patient*
14 *decision aids meet the standards developed and*
15 *identified under subparagraph (A). The entity*
16 *shall give priority to the review and certification*
17 *of patient decision aids for preference sensitive*
18 *care.*

19 “(d) *PROGRAM TO DEVELOP, UPDATE AND PATIENT*
20 *DECISION AIDS TO ASSIST HEALTH CARE PROVIDERS AND*
21 *PATIENTS.*—

22 “(1) *IN GENERAL.*—*The Secretary, acting*
23 *through the Director, and in coordination with heads*
24 *of other relevant agencies, such as the Director of the*
25 *Centers for Disease Control and Prevention and the*

1 *Director of the National Institutes of Health, shall es-*
2 *tablish a program to award grants or contracts—*

3 *“(A) to develop, update, and produce pa-*
4 *tient decision aids for preference sensitive care to*
5 *assist health care providers in educating pa-*
6 *tients, caregivers, and authorized representatives*
7 *concerning the relative safety, relative effective-*
8 *ness (including possible health outcomes and im-*
9 *port on functional status), and relative cost of*
10 *treatment or, where appropriate, palliative care*
11 *options;*

12 *“(B) to test such materials to ensure such*
13 *materials are balanced and evidence based in*
14 *aiding health care providers and patients, care-*
15 *givers, and authorized representatives to make*
16 *informed decisions about patient care and can be*
17 *easily incorporated into a broad array of prac-*
18 *tice settings; and*

19 *“(C) to educate providers on the use of such*
20 *materials, including through academic curricula.*

21 *“(2) REQUIREMENTS FOR PATIENT DECISION*
22 *AIDS.—Patient decision aids developed and produced*
23 *pursuant to a grant or contract under paragraph*
24 *(1)—*

1 “(A) shall be designed to engage patients,
2 caregivers, and authorized representatives in in-
3 formed decisionmaking with health care pro-
4 viders;

5 “(B) shall present up-to-date clinical evi-
6 dence about the risks and benefits of treatment
7 options in a form and manner that is age-appro-
8 priate and can be adapted for patients, care-
9 givers, and authorized representatives from a va-
10 riety of cultural and educational backgrounds to
11 reflect the varying needs of consumers and di-
12 verse levels of health literacy;

13 “(C) shall, where appropriate, explain why
14 there is a lack of evidence to support one treat-
15 ment option over another; and

16 “(D) shall address health care decisions
17 across the age span, including those affecting
18 vulnerable populations including children.

19 “(3) *DISTRIBUTION.*—The Director shall ensure
20 that patient decision aids produced with grants or
21 contracts under this section are available to the pub-
22 lic.

23 “(4) *NONDUPLICATION OF EFFORTS.*—The Direc-
24 tor shall ensure that the activities under this section
25 of the Agency and other agencies, including the Cen-

1 *ters for Disease Control and Prevention and the Na-*
2 *tional Institutes of Health, are free of unnecessary du-*
3 *plication of effort.*

4 “(e) *GRANTS TO SUPPORT SHARED DECISIONMAKING*
5 *IMPLEMENTATION.*—

6 “(1) *IN GENERAL.*—*The Secretary shall establish*
7 *a program to provide for the phased-in development,*
8 *implementation, and evaluation of shared decision-*
9 *making using patient decision aids to meet the objec-*
10 *tive of improving the understanding of patients of*
11 *their medical treatment options.*

12 “(2) *SHARED DECISIONMAKING RESOURCE CEN-*
13 *TERS.*—

14 “(A) *IN GENERAL.*—*The Secretary shall*
15 *provide grants for the establishment and support*
16 *of Shared Decisionmaking Resource Centers (re-*
17 *ferred to in this subsection as ‘Centers’) to pro-*
18 *vide technical assistance to providers and to de-*
19 *velop and disseminate best practices and other*
20 *information to support and accelerate adoption,*
21 *implementation, and effective use of patient deci-*
22 *sion aids and shared decisionmaking by pro-*
23 *viders.*

24 “(B) *OBJECTIVES.*—*The objective of a Cen-*
25 *ter is to enhance and promote the adoption of*

1 *patient decision aids and shared decisionmaking*
2 *through—*

3 “(i) *providing assistance to eligible*
4 *providers with the implementation and ef-*
5 *fective use of, and training on, patient deci-*
6 *sion aids; and*

7 “(ii) *the dissemination of best practices*
8 *and research on the implementation and ef-*
9 *fective use of patient decision aids.*

10 “(3) *SHARED DECISIONMAKING PARTICIPATION*
11 *GRANTS.—*

12 “(A) *IN GENERAL.—The Secretary shall*
13 *provide grants to health care providers for the*
14 *development and implementation of shared deci-*
15 *sionmaking techniques and to assess the use of*
16 *such techniques.*

17 “(B) *PREFERENCE.—In order to facilitate*
18 *the use of best practices, the Secretary shall pro-*
19 *vide a preference in making grants under this*
20 *subsection to health care providers who partici-*
21 *pate in training by Shared Decisionmaking Re-*
22 *source Centers or comparable training.*

23 “(C) *LIMITATION.—Funds under this para-*
24 *graph shall not be used to purchase or imple-*
25 *ment use of patient decision aids other than*

1 *those certified under the process identified in*
2 *subsection (c).*

3 “(4) *GUIDANCE.*—*The Secretary may issue guid-*
4 *ance to eligible grantees under this subsection on the*
5 *use of patient decision aids.*

6 “(f) *FUNDING.*—*For purposes of carrying out this sec-*
7 *tion there are authorized to be appropriated such sums as*
8 *may be necessary for fiscal year 2010 and each subsequent*
9 *fiscal year.”.*

10 **SEC. 3507. PRESENTATION OF PRESCRIPTION DRUG BEN-**
11 **EFIT AND RISK INFORMATION.**

12 (a) *IN GENERAL.*—*The Secretary of Health and*
13 *Human Services (referred to in this section as the “Sec-*
14 *retary”), acting through the Commissioner of Food and*
15 *Drugs, shall determine whether the addition of quantitative*
16 *summaries of the benefits and risks of prescription drugs*
17 *in a standardized format (such as a table or drug facts box)*
18 *to the promotional labeling or print advertising of such*
19 *drugs would improve health care decisionmaking by clini-*
20 *cians and patients and consumers.*

21 (b) *REVIEW AND CONSULTATION.*—*In making the de-*
22 *termination under subsection (a), the Secretary shall review*
23 *all available scientific evidence and research on decision-*
24 *making and social and cognitive psychology and consult*
25 *with drug manufacturers, clinicians, patients and con-*

1 *sumers, experts in health literacy, representatives of racial*
2 *and ethnic minorities, and experts in women's and pedi-*
3 *atric health.*

4 (c) *REPORT.—Not later than 1 year after the date of*
5 *enactment of this Act, the Secretary shall submit to Con-*
6 *gress a report that provides—*

7 (1) *the determination by the Secretary under*
8 *subsection (a); and*

9 (2) *the reasoning and analysis underlying that*
10 *determination.*

11 (d) *AUTHORITY.—If the Secretary determines under*
12 *subsection (a) that the addition of quantitative summaries*
13 *of the benefits and risks of prescription drugs in a stand-*
14 *ardized format (such as a table or drug facts box) to the*
15 *promotional labeling or print advertising of such drugs*
16 *would improve health care decisionmaking by clinicians*
17 *and patients and consumers, then the Secretary, not later*
18 *than 3 years after the date of submission of the report under*
19 *subsection (c), shall promulgate proposed regulations as*
20 *necessary to implement such format.*

21 (e) *CLARIFICATION.—Nothing in this section shall be*
22 *construed to restrict the existing authorities of the Secretary*
23 *with respect to benefit and risk information.*

1 **SEC. 3508. DEMONSTRATION PROGRAM TO INTEGRATE**
2 **QUALITY IMPROVEMENT AND PATIENT SAFE-**
3 **TY TRAINING INTO CLINICAL EDUCATION OF**
4 **HEALTH PROFESSIONALS.**

5 (a) *IN GENERAL.*—*The Secretary may award grants*
6 *to eligible entities or consortia under this section to carry*
7 *out demonstration projects to develop and implement aca-*
8 *demic curricula that integrates quality improvement and*
9 *patient safety in the clinical education of health profes-*
10 *sionals. Such awards shall be made on a competitive basis*
11 *and pursuant to peer review.*

12 (b) *ELIGIBILITY.*—*To be eligible to receive a grant*
13 *under subsection (a), an entity or consortium shall—*

14 (1) *submit to the Secretary an application at*
15 *such time, in such manner, and containing such in-*
16 *formation as the Secretary may require;*

17 (2) *be or include—*

18 (A) *a health professions school;*

19 (B) *a school of public health;*

20 (C) *a school of social work;*

21 (D) *a school of nursing;*

22 (E) *a school of pharmacy;*

23 (F) *an institution with a graduate medical*
24 *education program; or*

25 (G) *a school of health care administration;*

1 (3) *collaborate in the development of curricula*
2 *described in subsection (a) with an organization that*
3 *accredits such school or institution;*

4 (4) *provide for the collection of data regarding*
5 *the effectiveness of the demonstration project; and*

6 (5) *provide matching funds in accordance with*
7 *subsection (c).*

8 (c) *MATCHING FUNDS.*—

9 (1) *IN GENERAL.*—*The Secretary may award a*
10 *grant to an entity or consortium under this section*
11 *only if the entity or consortium agrees to make avail-*
12 *able non-Federal contributions toward the costs of the*
13 *program to be funded under the grant in an amount*
14 *that is not less than \$1 for each \$5 of Federal funds*
15 *provided under the grant.*

16 (2) *DETERMINATION OF AMOUNT CONTRIB-*
17 *UTED.*—*Non-Federal contributions under paragraph*
18 *(1) may be in cash or in-kind, fairly evaluated, in-*
19 *cluding equipment or services. Amounts provided by*
20 *the Federal Government, or services assisted or sub-*
21 *sidized to any significant extent by the Federal Gov-*
22 *ernment, may not be included in determining the*
23 *amount of such contributions.*

24 (d) *EVALUATION.*—*The Secretary shall take such ac-*
25 *tion as may be necessary to evaluate the projects funded*

1 *under this section and publish, make publicly available,*
 2 *and disseminate the results of such evaluations on as wide*
 3 *a basis as is practicable.*

4 *(e) REPORTS.—Not later than 2 years after the date*
 5 *of enactment of this section, and annually thereafter, the*
 6 *Secretary shall submit to the Committee on Health, Edu-*
 7 *cation, Labor, and Pensions and the Committee on Finance*
 8 *of the Senate and the Committee on Energy and Commerce*
 9 *and the Committee on Ways and Means of the House of*
 10 *Representatives a report that—*

11 *(1) describes the specific projects supported*
 12 *under this section; and*

13 *(2) contains recommendations for Congress based*
 14 *on the evaluation conducted under subsection (d).*

15 **SEC. 3509. IMPROVING WOMEN'S HEALTH.**

16 *(a) HEALTH AND HUMAN SERVICES OFFICE ON*
 17 *WOMEN'S HEALTH.—*

18 *(1) ESTABLISHMENT.—Part A of title II of the*
 19 *Public Health Service Act (42 U.S.C. 202 et seq.) is*
 20 *amended by adding at the end the following:*

21 **“SEC. 229. HEALTH AND HUMAN SERVICES OFFICE ON WOM-**
 22 **EN'S HEALTH.**

23 *“(a) ESTABLISHMENT OF OFFICE.—There is estab-*
 24 *lished within the Office of the Secretary, an Office on Wom-*
 25 *en's Health (referred to in this section as the ‘Office’). The*

1 *Office shall be headed by a Deputy Assistant Secretary for*
2 *Women's Health who may report to the Secretary.*

3 “(b) *DUTIES.—The Secretary, acting through the Of-*
4 *fice, with respect to the health concerns of women, shall—*

5 “(1) *establish short-range and long-range goals*
6 *and objectives within the Department of Health and*
7 *Human Services and, as relevant and appropriate,*
8 *coordinate with other appropriate offices on activities*
9 *within the Department that relate to disease preven-*
10 *tion, health promotion, service delivery, research, and*
11 *public and health care professional education, for*
12 *issues of particular concern to women throughout*
13 *their lifespan;*

14 “(2) *provide expert advice and consultation to*
15 *the Secretary concerning scientific, legal, ethical, and*
16 *policy issues relating to women's health;*

17 “(3) *monitor the Department of Health and*
18 *Human Services' offices, agencies, and regional ac-*
19 *tivities regarding women's health and identify needs*
20 *regarding the coordination of activities, including in-*
21 *tramural and extramural multidisciplinary activi-*
22 *ties;*

23 “(4) *establish a Department of Health and*
24 *Human Services Coordinating Committee on Wom-*
25 *en's Health, which shall be chaired by the Deputy As-*

1 *stant Secretary for Women’s Health and composed*
2 *of senior level representatives from each of the agen-*
3 *cies and offices of the Department of Health and*
4 *Human Services;*

5 *“(5) establish a National Women’s Health Infor-*
6 *mation Center to—*

7 *“(A) facilitate the exchange of information*
8 *regarding matters relating to health information,*
9 *health promotion, preventive health services, re-*
10 *search advances, and education in the appro-*
11 *priate use of health care;*

12 *“(B) facilitate access to such information;*

13 *“(C) assist in the analysis of issues and*
14 *problems relating to the matters described in this*
15 *paragraph; and*

16 *“(D) provide technical assistance with re-*
17 *spect to the exchange of information (including*
18 *facilitating the development of materials for such*
19 *technical assistance);*

20 *“(6) coordinate efforts to promote women’s health*
21 *programs and policies with the private sector; and*

22 *“(7) through publications and any other means*
23 *appropriate, provide for the exchange of information*
24 *between the Office and recipients of grants, contracts,*

1 *and agreements under subsection (c), and between the*
2 *Office and health professionals and the general public.*

3 “(c) *GRANTS AND CONTRACTS REGARDING DUTIES.—*

4 “(1) *AUTHORITY.—In carrying out subsection*
5 *(b), the Secretary may make grants to, and enter into*
6 *cooperative agreements, contracts, and interagency*
7 *agreements with, public and private entities, agencies,*
8 *and organizations.*

9 “(2) *EVALUATION AND DISSEMINATION.—The*
10 *Secretary shall directly or through contracts with*
11 *public and private entities, agencies, and organiza-*
12 *tions, provide for evaluations of projects carried out*
13 *with financial assistance provided under paragraph*
14 *(1) and for the dissemination of information devel-*
15 *oped as a result of such projects.*

16 “(d) *REPORTS.—Not later than 1 year after the date*
17 *of enactment of this section, and every second year there-*
18 *after, the Secretary shall prepare and submit to the appro-*
19 *priate committees of Congress a report describing the activi-*
20 *ties carried out under this section during the period for*
21 *which the report is being prepared.*

22 “(e) *AUTHORIZATION OF APPROPRIATIONS.—For the*
23 *purpose of carrying out this section, there are authorized*
24 *to be appropriated such sums as may be necessary for each*
25 *of the fiscal years 2010 through 2014.”.*

1 (2) *TRANSFER OF FUNCTIONS.*—*There are trans-*
2 *ferred to the Office on Women’s Health (established*
3 *under section 229 of the Public Health Service Act,*
4 *as added by this section), all functions exercised by*
5 *the Office on Women’s Health of the Public Health*
6 *Service prior to the date of enactment of this section,*
7 *including all personnel and compensation authority,*
8 *all delegation and assignment authority, and all re-*
9 *maining appropriations. All orders, determinations,*
10 *rules, regulations, permits, agreements, grants, con-*
11 *tracts, certificates, licenses, registrations, privileges,*
12 *and other administrative actions that—*

13 (A) *have been issued, made, granted, or al-*
14 *lowed to become effective by the President, any*
15 *Federal agency or official thereof, or by a court*
16 *of competent jurisdiction, in the performance of*
17 *functions transferred under this paragraph; and*

18 (B) *are in effect at the time this section*
19 *takes effect, or were final before the date of enact-*
20 *ment of this section and are to become effective*
21 *on or after such date,*
22 *shall continue in effect according to their terms until*
23 *modified, terminated, superseded, set aside, or revoked*
24 *in accordance with law by the President, the Sec-*

1 retary, or other authorized official, a court of com-
2 petent jurisdiction, or by operation of law.

3 (b) *CENTERS FOR DISEASE CONTROL AND PREVEN-*
4 *TION OFFICE OF WOMEN’S HEALTH.*—Part A of title III
5 of the Public Health Service Act (42 U.S.C. 241 et seq.)
6 is amended by adding at the end the following:

7 **“SEC. 310A. CENTERS FOR DISEASE CONTROL AND PREVEN-**
8 **TION OFFICE OF WOMEN’S HEALTH.**

9 “(a) *ESTABLISHMENT.*—There is established within
10 the Office of the Director of the Centers for Disease Control
11 and Prevention, an office to be known as the Office of Wom-
12 en’s Health (referred to in this section as the ‘Office’). The
13 Office shall be headed by a director who shall be appointed
14 by the Director of such Centers.

15 “(b) *PURPOSE.*—The Director of the Office shall—

16 “(1) report to the Director of the Centers for Dis-
17 ease Control and Prevention on the current level of
18 the Centers’ activity regarding women’s health condi-
19 tions across, where appropriate, age, biological, and
20 sociocultural contexts, in all aspects of the Centers’
21 work, including prevention programs, public and pro-
22 fessional education, services, and treatment;

23 “(2) establish short-range and long-range goals
24 and objectives within the Centers for women’s health
25 and, as relevant and appropriate, coordinate with

1 *other appropriate offices on activities within the Cen-*
2 *ters that relate to prevention, research, education and*
3 *training, service delivery, and policy development, for*
4 *issues of particular concern to women;*

5 *“(3) identify projects in women’s health that*
6 *should be conducted or supported by the Centers;*

7 *“(4) consult with health professionals, non-*
8 *governmental organizations, consumer organizations,*
9 *women’s health professionals, and other individuals*
10 *and groups, as appropriate, on the policy of the Cen-*
11 *ters with regard to women; and*

12 *“(5) serve as a member of the Department of*
13 *Health and Human Services Coordinating Committee*
14 *on Women’s Health (established under section*
15 *229(b)(4)).*

16 *“(c) DEFINITION.—As used in this section, the term*
17 *‘women’s health conditions’, with respect to women of all*
18 *age, ethnic, and racial groups, means diseases, disorders,*
19 *and conditions—*

20 *“(1) unique to, significantly more serious for, or*
21 *significantly more prevalent in women; and*

22 *“(2) for which the factors of medical risk or type*
23 *of medical intervention are different for women, or for*
24 *which there is reasonable evidence that indicates that*
25 *such factors or types may be different for women.*

1 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—For the
2 purpose of carrying out this section, there are authorized
3 to be appropriated such sums as may be necessary for each
4 of the fiscal years 2010 through 2014.”.

5 (c) *OFFICE OF WOMEN’S HEALTH RESEARCH.*—Sec-
6 tion 486(a) of the Public Health Service Act (42 U.S.C.
7 287d(a)) is amended by inserting “and who shall report
8 directly to the Director” before the period at the end thereof.

9 (d) *SUBSTANCE ABUSE AND MENTAL HEALTH SERV-*
10 *ICES ADMINISTRATION.*—Section 501(f) of the Public
11 Health Service Act (42 U.S.C. 290aa(f)) is amended—

12 (1) in paragraph (1), by inserting “who shall re-
13 port directly to the Administrator” before the period;

14 (2) by redesignating paragraph (4) as para-
15 graph (5); and

16 (3) by inserting after paragraph (3), the fol-
17 lowing:

18 “(4) *OFFICE.*—Nothing in this subsection shall
19 be construed to preclude the Secretary from estab-
20 lishing within the Substance Abuse and Mental
21 Health Administration an Office of Women’s
22 Health.”.

23 (e) *AGENCY FOR HEALTHCARE RESEARCH AND QUAL-*
24 *ITY ACTIVITIES REGARDING WOMEN’S HEALTH.*—Part C

1 *of title IX of the Public Health Service Act (42 U.S.C. 299c*
2 *et seq.) is amended—*

3 *(1) by redesignating sections 925 and 926 as sec-*
4 *tions 926 and 927, respectively; and*

5 *(2) by inserting after section 924 the following:*

6 **“SEC. 925. ACTIVITIES REGARDING WOMEN’S HEALTH.**

7 *“(a) ESTABLISHMENT.—There is established within*
8 *the Office of the Director, an Office of Women’s Health and*
9 *Gender-Based Research (referred to in this section as the*
10 *‘Office’). The Office shall be headed by a director who shall*
11 *be appointed by the Director of Healthcare and Research*
12 *Quality.*

13 *“(b) PURPOSE.—The official designated under sub-*
14 *section (a) shall—*

15 *“(1) report to the Director on the current Agency*
16 *level of activity regarding women’s health, across,*
17 *where appropriate, age, biological, and sociocultural*
18 *contexts, in all aspects of Agency work, including the*
19 *development of evidence reports and clinical practice*
20 *protocols and the conduct of research into patient out-*
21 *comes, delivery of health care services, quality of care,*
22 *and access to health care;*

23 *“(2) establish short-range and long-range goals*
24 *and objectives within the Agency for research impor-*
25 *tant to women’s health and, as relevant and appro-*

1 *appropriate, coordinate with other appropriate offices on*
2 *activities within the Agency that relate to health serv-*
3 *ices and medical effectiveness research, for issues of*
4 *particular concern to women;*

5 *“(3) identify projects in women’s health that*
6 *should be conducted or supported by the Agency;*

7 *“(4) consult with health professionals, non-*
8 *governmental organizations, consumer organizations,*
9 *women’s health professionals, and other individuals*
10 *and groups, as appropriate, on Agency policy with*
11 *regard to women; and*

12 *“(5) serve as a member of the Department of*
13 *Health and Human Services Coordinating Committee*
14 *on Women’s Health (established under section*
15 *229(b)(4)).”.*

16 *“(c) AUTHORIZATION OF APPROPRIATIONS.—For the*
17 *purpose of carrying out this section, there are authorized*
18 *to be appropriated such sums as may be necessary for each*
19 *of the fiscal years 2010 through 2014.”.*

20 *(f) HEALTH RESOURCES AND SERVICES ADMINISTRA-*
21 *TION OFFICE OF WOMEN’S HEALTH.—Title VII of the So-*
22 *cial Security Act (42 U.S.C. 901 et seq.) is amended by*
23 *adding at the end the following:*

1 **“SEC. 713. OFFICE OF WOMEN’S HEALTH.**

2 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
3 *within the Office of the Administrator of the Health Re-*
4 *sources and Services Administration, an office to be known*
5 *as the Office of Women’s Health. The Office shall be headed*
6 *by a director who shall be appointed by the Administrator.*

7 “(b) *PURPOSE.*—*The Director of the Office shall—*

8 “(1) *report to the Administrator on the current*
9 *Administration level of activity regarding women’s*
10 *health across, where appropriate, age, biological, and*
11 *sociocultural contexts;*

12 “(2) *establish short-range and long-range goals*
13 *and objectives within the Health Resources and Serv-*
14 *ices Administration for women’s health and, as rel-*
15 *evant and appropriate, coordinate with other appro-*
16 *priate offices on activities within the Administration*
17 *that relate to health care provider training, health*
18 *service delivery, research, and demonstration projects,*
19 *for issues of particular concern to women;*

20 “(3) *identify projects in women’s health that*
21 *should be conducted or supported by the bureaus of*
22 *the Administration;*

23 “(4) *consult with health professionals, non-*
24 *governmental organizations, consumer organizations,*
25 *women’s health professionals, and other individuals*

1 *and groups, as appropriate, on Administration policy*
2 *with regard to women; and*

3 “(5) *serve as a member of the Department of*
4 *Health and Human Services Coordinating Committee*
5 *on Women’s Health (established under section*
6 *229(b)(4) of the Public Health Service Act).*

7 “(c) *CONTINUED ADMINISTRATION OF EXISTING PRO-*
8 *GRAMS.—The Director of the Office shall assume the author-*
9 *ity for the development, implementation, administration,*
10 *and evaluation of any projects carried out through the*
11 *Health Resources and Services Administration relating to*
12 *women’s health on the date of enactment of this section.*

13 “(d) *DEFINITIONS.—For purposes of this section:*

14 “(1) *ADMINISTRATION.—The term ‘Administra-*
15 *tion’ means the Health Resources and Services Ad-*
16 *ministration.*

17 “(2) *ADMINISTRATOR.—The term ‘Adminis-*
18 *trator’ means the Administrator of the Health Re-*
19 *sources and Services Administration.*

20 “(3) *OFFICE.—The term ‘Office’ means the Office*
21 *of Women’s Health established under this section in*
22 *the Administration.*

23 “(e) *AUTHORIZATION OF APPROPRIATIONS.—For the*
24 *purpose of carrying out this section, there are authorized*

1 *to be appropriated such sums as may be necessary for each*
2 *of the fiscal years 2010 through 2014.”.*

3 *(g) FOOD AND DRUG ADMINISTRATION OFFICE OF*
4 *WOMEN’S HEALTH.—Chapter X of the Federal Food, Drug,*
5 *and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by*
6 *adding at the end the following:*

7 **“SEC. 1011. OFFICE OF WOMEN’S HEALTH.**

8 *“(a) ESTABLISHMENT.—There is established within*
9 *the Office of the Commissioner, an office to be known as*
10 *the Office of Women’s Health (referred to in this section*
11 *as the ‘Office’). The Office shall be headed by a director who*
12 *shall be appointed by the Commissioner of Food and Drugs.*

13 *“(b) PURPOSE.—The Director of the Office shall—*

14 *“(1) report to the Commissioner of Food and*
15 *Drugs on current Food and Drug Administration (re-*
16 *ferred to in this section as the ‘Administration’) levels*
17 *of activity regarding women’s participation in clin-*
18 *ical trials and the analysis of data by sex in the test-*
19 *ing of drugs, medical devices, and biological products*
20 *across, where appropriate, age, biological, and*
21 *sociocultural contexts;*

22 *“(2) establish short-range and long-range goals*
23 *and objectives within the Administration for issues of*
24 *particular concern to women’s health within the juris-*
25 *isdiction of the Administration, including, where rel-*

1 *evant and appropriate, adequate inclusion of women*
2 *and analysis of data by sex in Administration proto-*
3 *cols and policies;*

4 “(3) *provide information to women and health*
5 *care providers on those areas in which differences be-*
6 *tween men and women exist;*

7 “(4) *consult with pharmaceutical, biologics, and*
8 *device manufacturers, health professionals with exper-*
9 *tise in women’s issues, consumer organizations, and*
10 *women’s health professionals on Administration pol-*
11 *icy with regard to women;*

12 “(5) *make annual estimates of funds needed to*
13 *monitor clinical trials and analysis of data by sex in*
14 *accordance with needs that are identified; and*

15 “(6) *serve as a member of the Department of*
16 *Health and Human Services Coordinating Committee*
17 *on Women’s Health (established under section*
18 *229(b)(4) of the Public Health Service Act).*

19 “(c) *AUTHORIZATION OF APPROPRIATIONS.—For the*
20 *purpose of carrying out this section, there are authorized*
21 *to be appropriated such sums as may be necessary for each*
22 *of the fiscal years 2010 through 2014.”.*

23 (h) *NO NEW REGULATORY AUTHORITY.—Nothing in*
24 *this section and the amendments made by this section may*

1 *be construed as establishing regulatory authority or modi-*
2 *fying any existing regulatory authority.*

3 (i) *LIMITATION ON TERMINATION.*—*Notwithstanding*
4 *any other provision of law, a Federal office of women’s*
5 *health (including the Office of Research on Women’s Health*
6 *of the National Institutes of Health) or Federal appointive*
7 *position with primary responsibility over women’s health*
8 *issues (including the Associate Administrator for Women’s*
9 *Services under the Substance Abuse and Mental Health*
10 *Services Administration) that is in existence on the date*
11 *of enactment of this section shall not be terminated, reorga-*
12 *nized, or have any of its powers or duties transferred unless*
13 *such termination, reorganization, or transfer is approved*
14 *by Congress through the adoption of a concurrent resolution*
15 *of approval.*

16 (j) *RULE OF CONSTRUCTION.*—*Nothing in this section*
17 *(or the amendments made by this section) shall be construed*
18 *to limit the authority of the Secretary of Health and*
19 *Human Services with respect to women’s health, or with*
20 *respect to activities carried out through the Department of*
21 *Health and Human Services on the date of enactment of*
22 *this section.*

23 **SEC. 3510. PATIENT NAVIGATOR PROGRAM.**

24 *Section 340A of the Public Health Service Act (42*
25 *U.S.C. 256a) is amended—*

1 (1) *by striking subsection (d)(3) and inserting*
2 *the following:*

3 “(3) *LIMITATIONS ON GRANT PERIOD.—In car-*
4 *rying out this section, the Secretary shall ensure that*
5 *the total period of a grant does not exceed 4 years.”;*

6 (2) *in subsection (e), by adding at the end the*
7 *following:*

8 “(3) *MINIMUM CORE PROFICIENCIES.—The Sec-*
9 *retary shall not award a grant to an entity under*
10 *this section unless such entity provides assurances*
11 *that patient navigators recruited, assigned, trained,*
12 *or employed using grant funds meet minimum core*
13 *proficiencies, as defined by the entity that submits the*
14 *application, that are tailored for the main focus or*
15 *intervention of the navigator involved.”; and*

16 (3) *in subsection (m)—*

17 (A) *in paragraph (1), by striking “and*
18 *\$3,500,000 for fiscal year 2010.” and inserting*
19 *“\$3,500,000 for fiscal year 2010, and such sums*
20 *as may be necessary for each of fiscal years 2011*
21 *through 2015.”; and*

22 (B) *in paragraph (2), by striking “2010”*
23 *and inserting “2015”.*

1 **SEC. 3511. AUTHORIZATION OF APPROPRIATIONS.**

2 *Except where otherwise provided in this subtitle (or*
 3 *an amendment made by this subtitle), there is authorized*
 4 *to be appropriated such sums as may be necessary to carry*
 5 *out this subtitle (and such amendments made by this sub-*
 6 *title).*

7 ***Subtitle G—Protecting and Improv-***
 8 ***ing Guaranteed Medicare Bene-***
 9 ***fits***

10 **SEC. 3601. PROTECTING AND IMPROVING GUARANTEED**
 11 **MEDICARE BENEFITS.**

12 (a) *PROTECTING GUARANTEED MEDICARE BENE-*
 13 *FITS.—Nothing in the provisions of, or amendments made*
 14 *by, this Act shall result in a reduction of guaranteed bene-*
 15 *fits under title XVIII of the Social Security Act.*

16 (b) *ENSURING THAT MEDICARE SAVINGS BENEFIT*
 17 *THE MEDICARE PROGRAM AND MEDICARE BENE-*
 18 *FICIARIES.—Savings generated for the Medicare program*
 19 *under title XVIII of the Social Security Act under the pro-*
 20 *visions of, and amendments made by, this Act shall extend*
 21 *the solvency of the Medicare trust funds, reduce Medicare*
 22 *premiums and other cost-sharing for beneficiaries, and im-*
 23 *prove or expand guaranteed Medicare benefits and protect*
 24 *access to Medicare providers.*

1 **SEC. 3602. NO CUTS IN GUARANTEED BENEFITS.**

2 *Nothing in this Act shall result in the reduction or*
3 *elimination of any benefits guaranteed by law to partici-*
4 *pants in Medicare Advantage plans.*

5 **TITLE IV—PREVENTION OF**
6 **CHRONIC DISEASE AND IM-**
7 **PROVING PUBLIC HEALTH**

8 **Subtitle A—Modernizing Disease**
9 **Prevention and Public Health**
10 **Systems**

11 **SEC. 4001. NATIONAL PREVENTION, HEALTH PROMOTION**
12 **AND PUBLIC HEALTH COUNCIL.**

13 *(a) ESTABLISHMENT.—The President shall establish,*
14 *within the Department of Health and Human Services, a*
15 *council to be known as the “National Prevention, Health*
16 *Promotion and Public Health Council” (referred to in this*
17 *section as the “Council”).*

18 *(b) CHAIRPERSON.—The President shall appoint the*
19 *Surgeon General to serve as the chairperson of the Council.*

20 *(c) COMPOSITION.—The Council shall be composed*
21 *of—*

22 *(1) the Secretary of Health and Human Serv-*
23 *ices;*

24 *(2) the Secretary of Agriculture;*

25 *(3) the Secretary of Education;*