

103^D CONGRESS
2^D SESSION

H. R. 5252

AN ACT

To amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security Act
5 Amendments of 1994”.

1 **SEC. 2. REFERENCES IN ACT; TABLE OF CONTENTS.**

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

8 (b) REFERENCES TO OBRA.—In this Act, the terms
 9 “OBRA–1986”, “OBRA–1987”, “OBRA–1989”,
 10 “OBRA–1990”, and “OBRA–1993” refer to the Omnibus
 11 Budget Reconciliation Act of 1986 (Public Law 99–509),
 12 the Omnibus Budget Reconciliation Act of 1987 (Public
 13 Law 100–203), the Omnibus Budget Reconciliation Act
 14 of 1989 (Public Law 101–239), the Omnibus Budget Rec-
 15 onciliation Act of 1990 (Public Law 101–508), and the
 16 Omnibus Budget Reconciliation Act of 1993 (Public Law
 17 103–66), respectively.

18 (c) TABLE OF CONTENTS.—The table of contents is
 19 as follows:

- Sec. 1. Short title.
- Sec. 2. References in Act; table of contents.

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

- Sec. 101. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.
- Sec. 102. Essential access community hospital (EACH) amendments.
- Sec. 103. Provisions relating to rural health transition grant program.
- Sec. 104. Psychology services in hospitals.
- Sec. 105. Medicare-dependent, small rural hospitals and sole community hospitals.
- Sec. 106. Skilled nursing facilities.

- Sec. 107. Notification of availability of hospice benefit.
- Sec. 108. Clarifying expertise of individuals to serve on the Prospective Payment Assessment Commission.
- Sec. 109. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.
- Sec. 110. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

- Sec. 121. Development and implementation of resource-based methodology for practice expenses.
- Sec. 122. Geographic cost of practice index refinements.
- Sec. 123. Extra-billing limits.
- Sec. 124. Relative values for pediatric services.
- Sec. 125. Administration of claims relating to physicians' services.
- Sec. 126. Miscellaneous and technical corrections.

PART II—DURABLE MEDICAL EQUIPMENT

- Sec. 131. Certification of suppliers.
- Sec. 132. Restrictions on certain marketing and sales activities.
- Sec. 133. Beneficiary liability for noncovered services.
- Sec. 134. Adjustments for inherent reasonableness.
- Sec. 135. Miscellaneous and technical corrections.

PART III—OTHER ITEMS AND SERVICES

- Sec. 141. Ambulatory surgical center services.
- Sec. 142. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.
- Sec. 143. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
- Sec. 144. Payment of part B premium late enrollment penalties by States.
- Sec. 145. Application of mammography certification requirements.
- Sec. 146. Coverage of services of speech-language pathologists and audiologists.
- Sec. 147. Miscellaneous and technical corrections.

Subtitle C—Provisions Relating to Parts A and B

- Sec. 151. Medicare secondary payer reforms.
- Sec. 152. Physician ownership and referral.
- Sec. 153. Definition of FMGEMS examination for payment of direct graduate medical education.
- Sec. 154. Qualified medicare beneficiary outreach.
- Sec. 155. Hospital agreements with organ procurement organizations.
- Sec. 156. Peer review organizations.
- Sec. 157. Health maintenance organizations.
- Sec. 158. Home health agencies.
- Sec. 159. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.
- Sec. 160. Miscellaneous and technical corrections.

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

- Sec. 171. Standards for medicare supplemental insurance policies.

Sec. 172. 6-month extension of period for issuance of medicare select policies.

TITLE II—MATERNAL AND CHILD HEALTH SERVICES BLOCK
GRANT PROGRAM

Subtitle A—Child Welfare, Foster Care, Adoption

- Sec. 201. Increase in authorization of appropriations for the Maternal and Child Health Services Block Grant Program.
- Sec. 202. Required protections for foster children.
- Sec. 203. Conformity reviews.
- Sec. 204. States required to report on measures taken to comply with the Indian Child Welfare Act.
- Sec. 205. Child welfare traineeships.
- Sec. 206. Dispositional hearing.
- Sec. 207. Elimination of foster care ceilings and of authority to transfer unused foster care funds to child welfare services programs.
- Sec. 208. Demonstration projects.
- Sec. 209. Placement accountability.
- Sec. 210. Payments of State claims for foster care and adoption assistance.
- Sec. 211. Effect of failure to carry out State plan.

Subtitle B—Child Support Enforcement

- Sec. 212. Reports to credit bureaus on persons delinquent in child support payments.
- Sec. 213. Technical amendments to provision on State paternity establishment programs.
- Sec. 214. Agreement to assist in locating missing children under the parent locator service.

Subtitle C—Supplemental Security Income

- Sec. 221. Definition of disability for children under age 18 applied to all individuals under age 18.

Subtitle D—Aid to Families With Dependent Children

- Sec. 231. Simplification of income and eligibility verification system.
- Sec. 232. Measurement and reporting of welfare receipt.
- Sec. 233. New Hope demonstration project.
- Sec. 234. Delay in requirement that outlying areas operate an AFDC-up program.
- Sec. 235. State option to use retrospective budgeting without monthly reporting.

Subtitle E—JOBS Program

- Sec. 241. Expansion of coverage for Indian tribes.
- Sec. 242. Report to the Congress with respect to performance standards in the JOBS program.

Subtitle F—Other Provisions

- Sec. 261. Extension of demonstration to expand job opportunities.
- Sec. 262. Early childhood development projects.
- Sec. 263. Reallocation of funds under title XX for empowerment and enterprise grants.

Sec. 264. Corrections related to the income security and human resources provisions of OBRA-1990.

Sec. 265. Technical corrections related to the human resource and income security provisions of OBRA-1989.

Sec. 266. Technical correction related to the human resource and income security provisions of OBRA-1993.

Sec. 267. Elimination of obsolete provisions relating to treatment of the earned income tax credit.

Sec. 268. Redesignation of certain provisions.

1 **TITLE I—MEDICARE PROVISIONS**

2 **Subtitle A—Provisions Relating to**

3 **Part A**

4 **SEC. 101. PROVISIONS RELATING TO ADJUSTMENTS TO**

5 **STANDARDIZED AMOUNTS FOR WAGES AND**

6 **WAGE-RELATED COSTS.**

7 (a) USE OF OCCUPATIONAL MIX IN GUIDELINES FOR
8 DETERMINATION OF AREA WAGE INDEX.—

9 (1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I)
10 (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by
11 inserting “(to the extent the Secretary determines
12 appropriate)” after “taking into account”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall take effect as if included in
15 the enactment of OBRA-1989.

16 (b) CONFORMING AMENDMENTS RELATING TO GEO-
17 GRAPHIC AREA USED TO DETERMINE WAGE INDEX AP-
18 PPLICABLE TO HOSPITAL.—(1) Section 1886(d)(8)(C) (42
19 U.S.C. 1395ww(d)(8)(C)), as amended by section
20 13501(b)(1) of OBRA-1993, is amended—

1 (A) in clause (iv), by striking “paragraph (1)”
2 and inserting “paragraph (10)”; and

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

5 “(v) This subparagraph shall apply with respect to
6 discharges occurring in a fiscal year only if the Secretary
7 uses a method for making adjustments to the DRG pro-
8 spective payment rate for area differences in hospital wage
9 levels under paragraph (3)(E) for the fiscal year that is
10 based on the use of Metropolitan Statistical Area classi-
11 fications.”.

12 (2) Section 1886(d)(10) (42 U.S.C. 1395ww(d)(10))
13 is amended—

14 (A) in subparagraph (C)(i)(II), by striking “the
15 area wage index applicable” and inserting “the fac-
16 tor used to adjust the DRG prospective payment
17 rate for area differences in hospital wage levels that
18 applies”; and

19 (B) in subparagraph (D)—

20 (i) by redesignating clause (ii) as clause
21 (iii), and

22 (ii) by inserting after clause (i) the follow-
23 ing new clause:

24 “(ii) Notwithstanding clause (i), if the Secretary uses
25 a method for making adjustments to the DRG prospective

1 payment rate for area differences in hospital wage levels
2 under paragraph (3)(E) that is not based on the use of
3 Metropolitan Statistical Area classifications, the Secretary
4 may revise the guidelines published under clause (i) to the
5 extent such guidelines are used to determine the appro-
6 priateness of the geographic area in which the hospital is
7 determined to be located for purposes of making such ad-
8 justments.”.

9 (c) ADJUSTMENT OF LABOR AND NON-LABOR POR-
10 TIONS OF STANDARDIZED AMOUNTS.—Section
11 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is
12 amended by adding at the end the following: “For dis-
13 charges occurring on or after October 1, 1994, the Sec-
14 retary shall adjust the ratio of the labor portion to non-
15 labor portion of each average standardized amount to
16 equal such ratio for the national average of all standard-
17 ized amounts.”.

18 **SEC. 102. ESSENTIAL ACCESS COMMUNITY HOSPITAL**
19 **(EACH) AMENDMENTS.**

20 (a) TREATMENT OF INPATIENT HOSPITAL SERVICES
21 PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

22 (1) IN GENERAL.—Section 1820(f)(1)(F) (42
23 U.S.C. 1395i-4(f)(1)(F)) is amended to read as fol-
24 lows:

1 “(F) subject to paragraph (4), provides not
2 more than 6 inpatient beds (meeting such con-
3 ditions as the Secretary may establish) for pro-
4 viding inpatient care to patients requiring sta-
5 bilization before discharge or transfer to a hos-
6 pital, except that the facility may not provide
7 any inpatient hospital services—

8 “(i) to any patient whose attending
9 physician does not certify that the patient
10 may reasonably be expected to be dis-
11 charged or transferred to a hospital within
12 72 hours of admission to the facility; or

13 “(ii) consisting of surgery or any
14 other service requiring the use of general
15 anesthesia (other than surgical procedures
16 specified by the Secretary under section
17 1833(i)(1)(A)), unless the attending physi-
18 cian certifies that the risk associated with
19 transferring the patient to a hospital for
20 such services outweighs the benefits of
21 transferring the patient to a hospital for
22 such services.”.

23 (2) LIMITATION ON AVERAGE LENGTH OF
24 STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is

1 amended by adding at the end the following new
2 paragraph:

3 “(4) LIMITATION ON AVERAGE LENGTH OF IN-
4 PATIENT STAYS.—The Secretary may terminate a
5 designation of a rural primary care hospital under
6 paragraph (1) if the Secretary finds that the average
7 length of stay for inpatients at the facility during
8 the previous year in which the designation was in ef-
9 fect exceeded 72 hours. In determining the compli-
10 ance of a facility with the requirement of the pre-
11 vious sentence, there shall not be taken into account
12 periods of stay of inpatients in excess of 72 hours
13 to the extent such periods exceed 72 hours because
14 transfer to a hospital is precluded because of inclem-
15 ent weather or other emergency conditions.”.

16 (3) CONFORMING AMENDMENT.—Section
17 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by
18 striking “such services” and all that follows and in-
19 sserting “the individual may reasonably be expected
20 to be discharged or transferred to a hospital within
21 72 hours after admission to the rural primary care
22 hospital.”.

23 (4) GAO REPORTS.—Not later than 2 years
24 after the date of the enactment of this Act, the

1 Comptroller General shall submit reports to Con-
2 gress on—

3 (A) the application of the requirements
4 under section 1820(f) of the Social Security Act
5 (as amended by this subsection) that rural pri-
6 mary care hospitals provide inpatient care only
7 to those individuals whose attending physicians
8 certify may reasonably be expected to be dis-
9 charged within 72 hours after admission and
10 maintain an average length of inpatient stay
11 during a year that does not exceed 72 hours;
12 and

13 (B) the extent to which such requirements
14 have resulted in such hospitals providing inpa-
15 tient care beyond their capabilities or have lim-
16 ited the ability of such hospitals to provide
17 needed services.

18 (b) DESIGNATION OF HOSPITALS.—

19 (1) PERMITTING DESIGNATION OF HOSPITALS
20 LOCATED IN URBAN AREAS.—

21 (A) IN GENERAL.—Section 1820 (42
22 U.S.C. 1395i-4) is amended—

23 (i) by striking paragraph (1) of sub-
24 section (e) and redesignating paragraphs

1 (2) through (6) as paragraphs (1) through
2 (5);

3 (ii) in subsection (e)(1)(A) (as redese-
4 gnated by subparagraph (A))—

5 (I) by striking “is located” and
6 inserting “except in the case of a hos-
7 pital located in an urban area, is lo-
8 cated”,

9 (II) by striking “, (ii)” and in-
10 sserting “or (ii)”, and

11 (III) by striking “or (iii)” and all
12 that follows through “section,”; and

13 (iii) in subsection (i)(1)(B), by strik-
14 ing “paragraph (3)” and inserting “para-
15 graph (2)”.

16 (B) NO CHANGE IN MEDICARE PROSPEC-
17 TIVE PAYMENT.—Section 1886(d)(5)(D) (42
18 U.S.C. 1395ww(d)(5)(D)) is amended—

19 (i) in clause (iii)(III), by inserting “lo-
20 cated in a rural area and” after “that is”,
21 and

22 (ii) in clause (v), by inserting “located
23 in a rural area and” after “in the case of
24 a hospital”.

1 (2) PERMITTING HOSPITALS LOCATED IN AD-
2 JOINING STATES TO PARTICIPATE IN STATE PRO-
3 GRAM.—

4 (A) IN GENERAL.—Section 1820 (42
5 U.S.C. 1395i-4) is amended—

6 (i) by redesignating subsection (k) as
7 subsection (l); and

8 (ii) by inserting after subsection (j)
9 the following new subsection:

10 “(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN
11 PARTICIPATING STATES.—Notwithstanding any other
12 provision of this section—

13 “(1) for purposes of including a hospital or fa-
14 cility as a member institution of a rural health net-
15 work, a State may designate a hospital or facility
16 that is not located in the State as an essential access
17 community hospital or a rural primary care hospital
18 if the hospital or facility is located in an adjoining
19 State and is otherwise eligible for designation as
20 such a hospital;

21 “(2) the Secretary may designate a hospital or
22 facility that is not located in a State receiving a
23 grant under subsection (a)(1) as an essential access
24 community hospital or a rural primary care hospital
25 if the hospital or facility is a member institution of

1 a rural health network of a State receiving a grant
2 under such subsection; and

3 “(3) a hospital or facility designated pursuant
4 to this subsection shall be eligible to receive a grant
5 under subsection (a)(2).”.

6 (B) CONFORMING AMENDMENTS.—(i) Sec-
7 tion 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is
8 amended by striking “paragraph (3)” and in-
9 serting “paragraph (3) or subsection (k)”.

10 (ii) Paragraphs (1)(A) and (2)(A) of sec-
11 tion 1820(i) (42 U.S.C. 1395i-4(i)) are each
12 amended—

13 (I) in clause (i), by striking “(a)(1)”
14 and inserting “(a)(1) (except as provided
15 in subsection (k))”, and

16 (II) in clause (ii), by striking “sub-
17 paragraph (B)” and inserting “subpara-
18 graph (B) or subsection (k)”.

19 (c) SKILLED NURSING SERVICES IN RURAL PRIMARY
20 CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-
21 4(f)(3)) is amended by striking “because the facility” and
22 all that follows and inserting the following: “because, at
23 the time the facility applies to the State for designation
24 as a rural primary care hospital, there is in effect an
25 agreement between the facility and the Secretary under

1 section 1883 under which the facility’s inpatient hospital
2 facilities are used for the furnishing of extended care serv-
3 ices, except that the number of beds used for the furnish-
4 ing of such services may not exceed the total number of
5 licensed inpatient beds at the time the facility applies to
6 the State for such designation (minus the number of inpa-
7 tient beds used for providing inpatient care pursuant to
8 paragraph (1)(F)). For purposes of the previous sentence,
9 the number of beds of the facility used for the furnishing
10 of extended care services shall not include any beds of a
11 unit of the facility that is licensed as a distinct-part skilled
12 nursing facility at the time the facility applies to the State
13 for designation as a rural primary care hospital.”.

14 (d) DEADLINE FOR DEVELOPMENT OF PROSPECTIVE
15 PAYMENT SYSTEM FOR INPATIENT RURAL PRIMARY
16 CARE HOSPITAL SERVICES.—Section 1814(l)(2) (42
17 U.S.C. 1395f(l)(2)) is amended by striking “January 1,
18 1993” and inserting “January 1, 1996”.

19 (e) PAYMENT FOR OUTPATIENT RURAL PRIMARY
20 CARE HOSPITAL SERVICES.—

21 (1) IMPLEMENTATION OF PROSPECTIVE PAY-
22 MENT SYSTEM.—Section 1834(g) (42 U.S.C.
23 1395m(g)) is amended—

24 (A) in paragraph (1), by striking “during
25 a year before 1993” and inserting “during a

1 year before the prospective payment system de-
2 scribed in paragraph (2) is in effect”; and

3 (B) in paragraph (2), by striking “January
4 1, 1993,” and inserting “January 1, 1996,”.

5 (2) NO USE OF CUSTOMARY CHARGE IN DETER-
6 MINING PAYMENT.—Section 1834(g)(1) (42 U.S.C.
7 1395m(g)(1)) is amended by adding at the end the
8 following new flush sentence:

9 “The amount of payment shall be determined under
10 either method without regard to the amount of the
11 customary or other charge.”.

12 (f) CLARIFICATION OF PHYSICIAN STAFFING RE-
13 QUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—
14 Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is
15 amended by striking the period and inserting the follow-
16 ing: “, except that in determining whether a facility meets
17 the requirements of this subparagraph, subparagraphs (E)
18 and (F) of that paragraph shall be applied as if any ref-
19 erence to a ‘physician’ is a reference to a physician as de-
20 fined in section 1861(r)(1).”.

21 (g) TECHNICAL AMENDMENTS RELATING TO PART
22 A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILL-
23 NESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1))
24 is amended—

1 (A) by striking “inpatient hospital services” the
2 first place it appears and inserting “inpatient hos-
3 pital services or inpatient rural primary care hos-
4 pital services”;

5 (B) by striking “inpatient hospital services” the
6 second place it appears and inserting “such serv-
7 ices”; and

8 (C) by striking “and inpatient rural primary
9 care hospital services”.

10 (2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C.
11 1395e(a), 1395e(b)(3)(A)) are each amended by striking
12 “inpatient hospital services” each place it appears and in-
13 serting “inpatient hospital services or inpatient rural pri-
14 mary care hospital services”.

15 (3) Section 1813(b)(3)(B) (42 U.S.C.
16 1395e(b)(3)(B)) is amended by striking “inpatient hos-
17 pital services” and inserting “inpatient hospital services,
18 inpatient rural primary care hospital services”.

19 (4) Section 1861(a) (42 U.S.C. 1395x(a)) is amend-
20 ed—

21 (A) in paragraph (1), by striking “inpatient
22 hospital services” and inserting “inpatient hospital
23 services, inpatient rural primary care hospital serv-
24 ices”; and

1 (B) in paragraph (2), by striking “hospital”
2 and inserting “hospital or rural primary care hos-
3 pital”.

4 (h) AUTHORIZATION OF APPROPRIATIONS.—Section
5 1820(l) (42 U.S.C. 1395i-4(l)), as redesignated by sub-
6 section (c)(2)(A), is amended by striking “1990, 1991,
7 and 1992” and inserting “1990 through 1997”.

8 (i) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **SEC. 103. PROVISIONS RELATING TO RURAL HEALTH TRAN-**
12 **SITION GRANT PROGRAM.**

13 (a) ELIGIBILITY OF RURAL PRIMARY CARE HOS-
14 PITALS FOR GRANTS.—

15 (1) IN GENERAL.—Section 4005(e)(2) of
16 OBRA-1987 is amended in the matter preceding
17 subparagraph (A) by inserting “any rural primary
18 care hospital designated by the Secretary under sec-
19 tion 1820(i)(2) of the Social Security Act, or” after
20 “means”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall apply to grants made on or
23 after October 1, 1994.

24 (b) EXTENSION OF AUTHORIZATION OF APPROPRIA-
25 TIONS.—Section 4005(e)(9) of OBRA-1987 is amended—

1 (1) by striking “1989 and” and inserting
2 “1989,”; and

3 (2) by striking “1992” and inserting “1992
4 and \$30,000,000 for each of fiscal years 1993
5 through 1997”.

6 (c) FREQUENCY OF REQUIRED REPORTS.—Section
7 4008(e)(8)(B) of OBRA–1987 is amended by striking
8 “every 6 months” and inserting “every 12 months”.

9 **SEC. 104. PSYCHOLOGY SERVICES IN HOSPITALS.**

10 Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is
11 amended by striking “physician;” and inserting “physi-
12 cian, except that a patient receiving qualified psychologist
13 services (as defined in subsection (ii)) may be under the
14 care of a clinical psychologist with respect to such services
15 to the extent permitted under State law;”.

16 **SEC. 105. MEDICARE-DEPENDENT, SMALL RURAL HOS-**
17 **PITALS AND SOLE COMMUNITY HOSPITALS.**

18 (a) MEDICARE DEPENDENT, SMALL RURAL HOS-
19 PITALS.—

20 (1) CLARIFICATION OF ADDITIONAL PAY-
21 MENT.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C.
22 1395ww(d)(5)(G)(ii)(I)), as amended by section
23 13501(e)(1) of OBRA–1993, is amended by striking
24 “the first 3 12-month cost reporting periods that
25 begin” and inserting “the 36-month period begin-

1 ning with the first day of the cost reporting period
2 that begins”.

3 (2) CONFORMING TARGET AMOUNTS TO EXTEN-
4 SION OF ADDITIONAL PAYMENTS.—Section
5 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is
6 amended in the matter preceding clause (i) by strik-
7 ing “March 31, 1993” and inserting “September 30,
8 1994”.

9 (b) CLARIFICATION OF UPDATES.—Section
10 1886(b)(3)(B)(iv)(II) (42 U.S.C.
11 1395ww(b)(3)(B)(iv)(II)), as added by section
12 13501(a)(2) of OBRA–1993, is amended by striking
13 “(taking into account” and all that follows through
14 “1994)” and inserting “(adjusted to exclude any portion
15 of a cost reporting period beginning during fiscal year
16 1993 for which the applicable percentage increase is deter-
17 mined under subparagraph (I))”.

18 **SEC. 106. SKILLED NURSING FACILITIES.**

19 (a) CONSTRUCTION OF WAGE INDEX.—Not later
20 than 1 year after the date of the enactment of this Act,
21 the Secretary of Health and Human Services shall begin
22 to collect data on employee compensation and paid hours
23 of employment in skilled nursing facilities for the purpose
24 of constructing a skilled nursing facility wage index ad-

1 justment to the routine service cost limits required under
2 section 1888(a)(4) of the Social Security Act.

3 (b) CLARIFICATION OF REPEAL OF UTILIZATION RE-
4 VIEW REQUIREMENTS.—

5 (1) IN GENERAL.—(A) Section 1814(a)(5) (42
6 U.S.C. 1395f(a)(5)) is amended—

7 (i) by striking “and with respect” and all
8 that follows through “regulations”;

9 (ii) by striking “or skilled nursing facility,
10 as the case may be”; and

11 (iii) by striking “or facility”.

12 (B) Section 1866(d) (42 U.S.C. 1395cc(d)) is
13 amended—

14 (i) by striking “or skilled nursing facility”;

15 (ii) by striking “or facility” each place it
16 appears;

17 (iii) by striking “or for post-hospital” and
18 all that follows through “the case may be”; and

19 (iv) by striking “, or (in the case of” and
20 all that follows through “transfer agreement,”.

21 (2) EFFECTIVE DATE.—The amendments made
22 by paragraph (1) shall take effect as if included in
23 the enactment of OBRA–1987.

24 (c) CONFORMING AMENDMENTS TO NURSING HOME
25 REFORM.—

1 (1) SUSPENSION OF DECERTIFICATION OF
2 NURSES AIDE TRAINING AND COMPETENCY EVALUA-
3 TION PROGRAMS BASED ON EXTENDED SURVEYS.—

4 (A) IN GENERAL.—Section
5 1819(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1395i-
6 3(f)(2)(B)(iii)(I)(b)) is amended by striking the
7 semicolon and inserting the following: “, unless
8 the survey shows that the facility is in compli-
9 ance with the requirements of subsections (b),
10 (c), and (d) of this section;”.

11 (B) EFFECTIVE DATE.—The amendment
12 made by subparagraph (A) shall take effect as
13 if included in the enactment of OBRA-1990.

14 (2) REQUIREMENTS FOR CONSULTANTS CON-
15 DUCTING REVIEWS ON USE OF DRUGS.—

16 (A) IN GENERAL.—Section 1819(c)(1)(D)
17 (42 U.S.C. 1395i-3(c)(1)(D)) is amended by
18 adding at the end the following sentence: “In
19 determining whether such a consultant is quali-
20 fied to conduct reviews under the preceding sen-
21 tence, the Secretary shall take into account the
22 needs of nursing facilities under this title to
23 have access to the services of such a consultant
24 on a timely basis.”.

1 (B) EFFECTIVE DATE.—The amendment
2 made by subparagraph (A) shall take effect as
3 if included in the enactment of OBRA–1987.

4 (3) INCREASE IN MINIMUM AMOUNT REQUIRED
5 FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

6 (A) IN GENERAL.—Section
7 1819(c)(6)(B)(i) (42 U.S.C. 1395i–
8 3(c)(6)(B)(i)) is amended by striking “\$50”
9 and inserting “\$100”.

10 (B) EFFECTIVE DATE.—The amendment
11 made by subparagraph (A) shall take effect
12 January 1, 1995.

13 (4) DUE PROCESS PROTECTIONS FOR NURSE
14 AIDES.—

15 (A) PROHIBITING STATE FROM INCLUDING
16 UNDOCUMENTED ALLEGATIONS IN NURSES
17 AIDE REGISTRY.—Section 1819(e)(2)(B) (42
18 U.S.C. 1395i–3(e)(2)(B)) is amended by strik-
19 ing the period at the end of the first sentence
20 and inserting the following: “, but shall not in-
21 clude any allegations of resident abuse or ne-
22 glect or misappropriation of resident property
23 that are not specifically documented by the
24 State under such subsection.”.

1 (B) DUE PROCESS REQUIREMENTS FOR
2 REBUTTING ALLEGATIONS.—Section
3 1819(g)(1)(C) (42 U.S.C. 1395i–3(g)(1)(C)) is
4 amended by striking the second sentence and
5 inserting the following: “The State shall, after
6 providing the individual involved with a written
7 notice of the allegations (including a statement
8 of the availability of a hearing for the individual
9 to rebut the allegations) and the opportunity
10 for a hearing on the record, make a written
11 finding as to the accuracy of the allegations.”.

12 (C) EFFECTIVE DATE.—The amendments
13 made by this paragraph shall take effect Janu-
14 ary 1, 1995.

15 (d) CORRECTIONS RELATING TO SECTION 4008.—

16 (1) Section 1819(b)(5)(D) (42 U.S.C. 1395i–
17 3(b)(5)(D)), as amended by section 4008(h)(1)(D)
18 of OBRA–1990, is amended by striking the comma
19 before “or a new competency evaluation program.”.

20 (2) Section 1819(b)(5)(G) (42 U.S.C. 1395i–
21 3(b)(5)(G)) is amended by striking “or licensed or
22 certified social worker” and inserting “licensed or
23 certified social worker, registered respiratory thera-
24 pist, or certified respiratory therapy technician”.

1 (3) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i-
2 3(f)(2)(B)(i)) is amended by striking “facilities,”
3 and inserting “facilities (subject to clause (iii)),”.

4 (4) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C.
5 1395i-3(f)(2)(B)(iii)(I)(c)) is amended by striking
6 “clauses” each place it appears and inserting
7 “clause”.

8 (5) Section 1819(g)(5)(B) (42 U.S.C. 1395i-
9 3(g)(5)(B)) is amended by striking “paragraphs”
10 and inserting “paragraph”.

11 (6) Section 4008(h)(1)(F)(ii) of OBRA-1990 is
12 amended—

13 (A) by striking “The amendments” and in-
14 serting “(I) The amendments”;

15 (B) by striking “nursing facility” each
16 place it appears and inserting “skilled nursing
17 facility”;

18 (C) by redesignating subclauses (I)
19 through (V) as items (aa) through (ee); and

20 (D) by adding at the end the following new
21 subclause:

22 “(II) Notwithstanding subclause (I)
23 and subject to section 1819(f)(2)(B)(iii)(I)
24 of the Social Security Act (as amended by
25 clause (i)), a State may approve a training

1 and competency evaluation program or a
2 competency evaluation program offered by
3 or in a skilled nursing facility described in
4 subclause (I) if, during the previous 2
5 years, item (aa), (bb), (cc), (dd), or (ee) of
6 subclause (I) did not apply to the facil-
7 ity.”.

8 (7) EFFECTIVE DATE.—The amendments made
9 by this subsection shall take effect as if included in
10 the enactment of OBRA–1990.

11 **SEC. 107. NOTIFICATION OF AVAILABILITY OF HOSPICE**
12 **BENEFIT.**

13 (a) IN GENERAL.—Section 1861(ee)(2)(D) (42
14 U.S.C. 1395x(ee)(2)(D)) is amended by inserting “, in-
15 cluding hospice services,” after “post-hospital services”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to services furnished on or after
18 the first day of the first month beginning more than one
19 year after the date of the enactment of this Act.

20 **SEC. 108. CLARIFYING EXPERTISE OF INDIVIDUALS TO**
21 **SERVE ON THE PROSPECTIVE PAYMENT AS-**
22 **SESSMENT COMMISSION.**

23 Section 1886(e)(6)(B) (42 U.S.C. 1395ww(e)(6)(B))
24 is amended by striking “hospital reimbursement, hospital
25 financial management” and inserting “health facility man-

1 agement, reimbursement of health facilities or other pro-
2 viders of services which reflect the scope of the Commis-
3 sion's responsibilities''.

4 **SEC. 109. AUTHORITY FOR BUDGET NEUTRAL ADJUST-**
5 **MENTS FOR CHANGES IN PAYMENT AMOUNTS**
6 **FOR TRANSFER CASES.**

7 Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)) is
8 amended—

9 (1) by inserting “(i)” after “(I)”; and

10 (2) by adding at the end the following new
11 clause:

12 “(ii) In making adjustments under clause (i) for
13 transfer cases (as defined by the Secretary) in a fiscal
14 year, the Secretary may make adjustments to each of the
15 average standardized amounts determined under para-
16 graph (3) to assure that the aggregate payments made
17 under this subsection for such fiscal year are not greater
18 or lesser than those that would have otherwise been made
19 in such fiscal year.”.

20 **SEC. 110. CLARIFICATION OF DRG PAYMENT WINDOW EX-**
21 **PANSION; MISCELLANEOUS AND TECHNICAL**
22 **CORRECTIONS.**

23 (a) CLARIFICATION OF DRG PAYMENT WINDOW EX-
24 PANSION.—The first sentence of section 1886(a)(4) (42
25 U.S.C. 1395ww(a)(4)) is amended by inserting “(or, in the

1 case of a hospital that is not a subsection (d) hospital,
2 during the 1 day)” after “3 days”.

3 (b) TECHNICAL CORRECTION RELATING TO RESI-
4 DENT ASSESSMENT IN NURSING HOMES.—Section
5 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is
6 amended by striking “not later than” before “14 days”.

7 (c) TECHNICAL CORRECTION RELATING TO APPLICA-
8 BLE ADJUSTMENT FACTOR FOR INDIRECT MEDICAL
9 EDUCATION ADJUSTMENT.—Section 1886(d)(5)(B)(ii)
10 (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended by striking
11 “May 1, 1986,” and inserting “October 1, 1988,”.

12 (d) CLERICAL CORRECTIONS.—(1) Section
13 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended
14 by striking “September 30, 1990,,” and inserting “Sep-
15 tember 30, 1990,”.

16 (2) Section 1816(f)(2)(A)(ii) (42 U.S.C.
17 1396h(f)(2)(A)(ii)) is amended by striking “such agency”
18 and inserting “such agency’s”.

19 **Subtitle B—Provisions Relating to**
20 **Part B**

21 **PART I—PHYSICIANS’ SERVICES**

22 **SEC. 121. DEVELOPMENT AND IMPLEMENTATION OF RE-**
23 **SOURCE-BASED METHODOLOGY FOR PRAC-**
24 **TICE EXPENSES.**

25 (a) DEVELOPMENT.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services shall develop a methodology for im-
3 plementing in 1998 a resource-based system for de-
4 termining practice expense relative value units for
5 each physicians' service. The methodology utilized
6 shall recognize the staff, equipment, and supplies
7 used in the provision of various medical and surgical
8 services in various settings.

9 (2) REPORT.—The Secretary shall transmit a
10 report by June 30, 1996, on the methodology devel-
11 oped under paragraph (1) to the Committees on
12 Ways and Means and Energy and Commerce of the
13 House of Representatives and the Committee on Fi-
14 nance of the Senate. The report shall include a pres-
15 entation of data utilized in developing the methodol-
16 ogy and an explanation of the methodology.

17 (b) IMPLEMENTATION.—

18 (1) IN GENERAL.—Section 1848(c)(2)(C)(ii)
19 (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is amended—

20 (A) by inserting “for the service for years
21 before 1998” before “equal to”,

22 (B) by striking the period at the end of
23 subclause (II) and inserting a comma, and

24 (C) by adding after and below subclause
25 (II) the following:

1 “and for years beginning with 1998 based
2 on the relative practice expense resources
3 involved in furnishing the service.”.

4 (2) CONFORMING AMENDMENT.—Section
5 1848(c)(3)(C)(ii) (42 U.S.C. 1395w-4(c)(3)(C)(ii))
6 is amended by striking “The practice” and inserting
7 “For years before 1998, the practice”.

8 (3) APPLICATION OF CERTAIN PROVISIONS.—In
9 implementing the amendment made by paragraph
10 (1)(C), the provisions of clauses (ii)(II) and (iii) of
11 section 1848(c)(2)(B) of the Social Security Act
12 shall apply in the same manner as they apply to ad-
13 justments under clause (ii)(I) of such section.

14 **SEC. 122. GEOGRAPHIC COST OF PRACTICE INDEX REFINE-**
15 **MENTS.**

16 (a) REQUIRING CONSULTATION WITH REPRESENTA-
17 TIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC AD-
18 JUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C.
19 1395w-4(e)(1)(C)) is amended by striking “shall review”
20 and inserting “shall, in consultation with appropriate rep-
21 resentatives of physicians, review”.

22 (b) USE OF MOST RECENT DATA IN GEOGRAPHIC
23 ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w-
24 4(e)(1)) is amended by adding at the end the following
25 new subparagraph:

1 “(D) USE OF RECENT DATA.—In estab-
2 lishing indices and index values under this
3 paragraph, the Secretary shall use the most re-
4 cent data available relating to practice ex-
5 penses, malpractice expenses, and physician
6 work effort in different fee schedule areas.”.

7 (c) REPORT ON REVIEW PROCESS.—Not later than
8 1 year after the date of the enactment of this Act, the
9 Secretary of Health and Human Services shall study and
10 report to the Committee on Finance of the Senate and
11 the Committee on Ways and Means and the Committee
12 on Energy and Commerce of the House of Representatives
13 on—

14 (1) the data necessary to review and revise the
15 indices established under section 1848(e)(1)(A) of
16 the Social Security Act, including—

17 (A) the shares allocated to physicians’
18 work effort, practice expenses (other than mal-
19 practice expenses), and malpractice expenses;

20 (B) the weights assigned to the input com-
21 ponents of such shares; and

22 (C) the index values assigned to such com-
23 ponents;

1 (2) any limitations on the availability of data
2 necessary to review and revise such indices at least
3 every three years;

4 (3) ways of addressing such limitations, with
5 particular attention to the development of alternative
6 data sources for input components for which current
7 index values are based on data collected less fre-
8 quently than every three years; and

9 (4) the costs of developing more accurate and
10 timely data.

11 **SEC. 123. EXTRA-BILLING LIMITS.**

12 (a) ENFORCEMENT OF LIMITS.—Section 1848(g) (42
13 U.S.C. 1395w-4(g)), as amended by section 13517(a) of
14 OBRA-1993, is amended—

15 (1) by amending paragraph (1) to read as fol-
16 lows:

17 “(1) LIMITATION ON ACTUAL CHARGES.—

18 “(A) IN GENERAL.—In the case of a
19 nonparticipating physician or nonparticipating
20 supplier or other person (as defined in section
21 1842(i)(2)) who does not accept payment on an
22 assignment-related basis for a physician’s serv-
23 ice furnished with respect to an individual en-
24 rolled under this part, the following rules apply:

1 “(i) APPLICATION OF LIMITING
2 CHARGE.—No person may bill or collect an
3 actual charge for the service in excess of
4 the limiting charge described in paragraph
5 (2) for such service.

6 “(ii) NO LIABILITY FOR EXCESS
7 CHARGES.—No person is liable for pay-
8 ment of any amounts billed for the service
9 in excess of such limiting charge.

10 “(iii) CORRECTION OF EXCESS
11 CHARGES.—If such a physician, supplier,
12 or other person bills, but does not collect,
13 an actual charge for a service in violation
14 of clause (i), the physician, supplier, or
15 other person shall reduce on a timely basis
16 the actual charge billed for the service to
17 an amount not to exceed the limiting
18 charge for the service.

19 “(iv) REFUND OF EXCESS COLLEC-
20 TIONS.—If such a physician, supplier, or
21 other person collects an actual charge for
22 a service in violation of clause (i), the phy-
23 sician, supplier, or other person shall pro-
24 vide on a timely basis a refund to the indi-
25 vidual charged in the amount by which the

1 amount collected exceeded the limiting
2 charge for the service. The amount of such
3 a refund shall be reduced to the extent the
4 individual has an outstanding balance owed
5 by the individual to the physician.

6 “(B) SANCTIONS.—If a physician, supplier,
7 or other person—

8 “(i) knowingly and willfully bills or
9 collects for services in violation of subpara-
10 graph (A)(i) on a repeated basis, or

11 “(ii) fails to comply with clause (iii)
12 or (iv) of subparagraph (A) on a timely
13 basis,

14 the Secretary may apply sanctions against the
15 physician, supplier, or other person in accord-
16 ance with paragraph (2) of section 1842(j). In
17 applying this subparagraph, paragraph (4) of
18 such section applies in the same manner as
19 such paragraph applies to such section and any
20 reference in such section to a physician is
21 deemed also to include a reference to a supplier
22 or other person under this subparagraph.

23 “(C) TIMELY BASIS.—For purposes of this
24 paragraph, a correction of a bill for an excess
25 charge or refund of an amount with respect to

1 a violation of subparagraph (A)(i) in the case of
2 a service is considered to be provided ‘on a
3 timely basis’, if the reduction or refund is made
4 not later than 30 days after the date the physi-
5 cian, supplier, or other person is notified by the
6 carrier under this part of such violation and of
7 the requirements of subparagraph (A).’; and
8 (2) in paragraph (3)(B)—

9 (A) by inserting after the first sentence the
10 following: “No person is liable for payment of
11 any amounts billed for such a service in viola-
12 tion of the previous sentence.”, and

13 (B) in the last sentence, by striking “pre-
14 vious sentence” and inserting “first sentence”.

15 (b) CLARIFICATION OF MANDATORY ASSIGNMENT

16 RULES FOR CERTAIN PRACTITIONERS.—

17 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.
18 1395u(b)), as amended by section 126(e), is amend-
19 ed by adding at the end the following new para-
20 graph:

21 “(18)(A) Payment for any service furnished by a
22 practitioner described in subparagraph (C) and for which
23 payment may be made under this part on a reasonable
24 charge or fee schedule basis may only be made under this
25 part on an assignment-related basis.

1 “(B) A practitioner described in subparagraph (C) or
2 other person may not bill (or collect any amount from)
3 the individual or another person for any service described
4 in subparagraph (A), except for deductible and coinsur-
5 ance amounts applicable under this part. No person is lia-
6 ble for payment of any amounts billed for such a service
7 in violation of the previous sentence. If a practitioner or
8 other person knowingly and willfully bills (or collects an
9 amount) for such a service in violation of such sentence,
10 the Secretary may apply sanctions against the practitioner
11 or other person in the same manner as the Secretary may
12 apply sanctions against a physician in accordance with
13 subsection (j)(2) in the same manner as such section ap-
14 plies with respect to a physician. Paragraph (4) of sub-
15 section (j) shall apply in this subparagraph in the same
16 manner as such paragraph applies to such section.

17 “(C) A practitioner described in this subparagraph
18 is any of the following:

19 “(i) A physician assistant, nurse practitioner, or
20 clinical nurse specialist (as defined in section
21 1861(aa)(5)).

22 “(ii) A certified registered nurse anesthetist (as
23 defined in section 1861(bb)(2)).

24 “(iii) A certified nurse-midwife (as defined in
25 section 1861(gg)(2)).

1 “(iv) A clinical social worker (as defined in sec-
2 tion 1861(hh)(1)).

3 “(v) A clinical psychologist (as defined by the
4 Secretary for purposes of section 1861(ii)).

5 “(D) For purposes of this paragraph, a service fur-
6 nished by a practitioner described in subparagraph (C) in-
7 cludes any services and supplies furnished as incident to
8 the service as would otherwise be covered under this part
9 if furnished by a physician or as incident to a physician’s
10 service.”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 1833 (42 U.S.C. 1395l) is
13 amended—

14 (i) in subsection (l)(5), by striking
15 subparagraph (B) and redesignating sub-
16 paragraph (C) as subparagraph (B);

17 (ii) by striking subsection (p); and

18 (iii) in subsection (r), by striking
19 paragraph (3) and redesignating para-
20 graph (4) as paragraph (3).

21 (B) Section 1842(b)(12) (42 U.S.C.
22 1395u(b)(12)) is amended by striking subpara-
23 graph (C).

24 (c) INFORMATION ON EXTRA-BILLING LIMITS.—

1 (1) PART OF EXPLANATION OF MEDICARE BEN-
2 EFITS.—Section 1842(h)(7) (42 U.S.C.
3 1395u(h)(7)) is amended—

4 (A) by striking “and” at the end of sub-
5 paragraph (B),

6 (B) in subparagraph (C), by striking “shall
7 include”,

8 (C) in subparagraph (C), by striking the
9 period at the end and inserting “, and”, and

10 (D) by adding at the end the following new
11 subparagraph:

12 “(D) in the case of services for which the billed
13 amount exceeds the limiting charge imposed under
14 section 1848(g), information regarding such applica-
15 ble limiting charge (including information concern-
16 ing the right to a refund under section
17 1848(g)(1)(A)(iv)).”.

18 (2) DETERMINATIONS BY CARRIERS.—Subpara-
19 graph (G) of section 1842(b)(3) (42 U.S.C.
20 1395u(b)(3)) is amended to read as follows:

21 “(G) will, for a service that is furnished with
22 respect to an individual enrolled under this part,
23 that is not paid on an assignment-related basis, and
24 that is subject to a limiting charge under section
25 1848(g)—

1 “(i) determine, prior to making payment,
2 whether the amount billed for such service ex-
3 ceeds the limiting charge applicable under sec-
4 tion 1848(g)(2);

5 “(ii) notify the physician, supplier, or other
6 person periodically (but not less often than once
7 every 30 days) of determinations that amounts
8 billed exceeded such applicable limiting charges;
9 and

10 “(iii) provide for prompt response to in-
11 quiries of physicians, suppliers, and other per-
12 sons concerning the accuracy of such limiting
13 charges for their services;”.

14 (d) REPORT ON CHARGES IN EXCESS OF LIMITING
15 CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-
16 4(g)(6)(B)) is amended by inserting “information on the
17 extent to which actual charges exceed limiting charges, the
18 number and types of services involved, and the average
19 amount of excess charges and information” after “report
20 to the Congress”.

21 (e) MISCELLANEOUS AND TECHNICAL AMEND-
22 MENTS.—Section 1833(h)(5)(D) (42 U.S.C.
23 1395l(h)(5)(D)) is amended—

24 (1) by striking “paragraphs (2) and (3)” and
25 by inserting “paragraph (2)”; and

1 (2) by adding at the end the following: “Para-
2 graph (4) of such section shall apply in this sub-
3 paragraph in the same manner as such paragraph
4 applies to such section.”.

5 (f) EFFECTIVE DATES.—

6 (1) ENFORCEMENT; MISCELLANEOUS AND
7 TECHNICAL AMENDMENTS.—The amendments made
8 by subsections (a) and (e) shall apply to services fur-
9 nished on or after the date of the enactment of this
10 Act; except that the amendments made by sub-
11 section (a) shall not apply to services of a
12 nonparticipating supplier or other person furnished
13 before January 1, 1995.

14 (2) PRACTITIONERS.—The amendments made
15 by subsection (b) shall apply to services furnished on
16 or after January 1, 1995.

17 (3) EOMBs.—The amendments made by sub-
18 section (c)(1) shall apply to explanations of benefits
19 provided on or after July 1, 1995.

20 (4) CARRIER DETERMINATIONS.—The amend-
21 ments made by subsection (c)(2) shall apply to con-
22 tracts as of January 1, 1995.

23 (5) REPORT.—The amendment made by sub-
24 section (d) shall apply to reports for years beginning
25 with 1995.

1 **SEC. 124. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

2 (a) IN GENERAL.—The Secretary of Health and
3 Human Services shall fully develop, by not later than July
4 1, 1995, relative values for the full range of pediatric phy-
5 sicians' services which are consistent with the relative val-
6 ues developed for other physicians' services under section
7 1848(c) of the Social Security Act. In developing such val-
8 ues, the Secretary shall conduct such refinements as may
9 be necessary to produce appropriate estimates for such rel-
10 ative values.

11 (b) STUDY.—

12 (1) IN GENERAL.—The Secretary shall conduct
13 a study of the relative values for pediatric and other
14 services to determine whether there are significant
15 variations in the resources used in providing similar
16 services to different populations. In conducting such
17 study, the Secretary shall consult with appropriate
18 organizations representing pediatricians and other
19 physicians and physical and occupational therapists.

20 (2) REPORT.—Not later than July 1, 1995, the
21 Secretary shall submit to Congress a report on the
22 study conducted under paragraph (1). Such report
23 shall include any appropriate recommendations re-
24 garding needed changes in coding or other payment
25 policies to ensure that payments for pediatric serv-

1 read as follows: “(D) payment may be made to a
2 physician for physicians’ services (and services fur-
3 nished incident to such services) furnished by a sec-
4 ond physician to patients of the first physician if (i)
5 the first physician is unavailable to provide the serv-
6 ices; (ii) the services are furnished pursuant to an
7 arrangement between the two physicians that (I) is
8 informal and reciprocal, or (II) involves per diem or
9 other fee-for-time compensation for such services;
10 (iii) the services are not provided by the second phy-
11 sician over a continuous period of more than 60
12 days; and (iv) the claim form submitted to the car-
13 rier for such services includes the second physician’s
14 unique identifier (provided under the system estab-
15 lished under subsection (r)) and indicates that the
16 claim meets the requirements of this subparagraph
17 for payment to the first physician”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by paragraph (1) shall apply to services furnished on
20 or after the first day of the first month beginning
21 more than 60 days after the date of the enactment
22 of this Act.

1 **SEC. 126. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

2 (a) OVERVALUED PROCEDURES.—(1) Section
3 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is
4 amended—

5 (A) by striking “, simple and subcutaneous”,

6 (B) by striking “; small” and inserting “and
7 small”,

8 (C) by striking “treatments;” the first place it
9 appears and inserting “and”,

10 (D) by striking “lobectomy;”,

11 (E) by striking “enterectomy; colectomy; chole-
12 cystectomy;”,

13 (F) by striking “; transurethral resection”
14 and inserting “and resection”, and

15 (G) by striking “sacral laminectomy;”.

16 (2) Section 4101(b)(2) of OBRA–1990 is amended—

17 (A) in the matter before subparagraph (A), by
18 striking “1842(b)(16)” and inserting
19 “1842(b)(16)(B)”, and

20 (B) in subparagraph (B)—

21 (i) by striking “, simple and subcutane-
22 ous”,

23 (ii) by striking “(HCPCS codes 19160 and
24 19162)” and inserting “(HCPCS code 19160)”,
25 and

1 (iii) by striking all that follows “(HCPCS
2 codes 92250” and inserting “and 92260).”.

3 (b) RADIOLOGY SERVICES.—(1) Section 1834(b)(4)
4 (42 U.S.C. 1395m(b)(4)) is amended by redesignating the
5 subparagraphs (E) and (F) redesignated by section
6 4102(a)(1) of OBRA–1990 as subparagraphs (F) and
7 (G), respectively.

8 (2) Section 1834(b)(4)(D) (42 U.S.C.
9 1395m(b)(4)(D)) is amended—

10 (A) in the matter before clause (i), by striking
11 “shall be determined as follows:” and inserting
12 “shall, subject to clause (vii), be reduced to the ad-
13 justed conversion factor for the locality determined
14 as follows:”,

15 (B) in clause (iv), by striking “LOCAL ADJUST-
16 MENT.—Subject to clause (vii), the conversion factor
17 to be applied to” and inserting “ADJUSTED CONVER-
18 SION FACTOR.—The adjusted conversion factor for”,

19 (C) in clause (vii), by striking “under this sub-
20 paragraph”, and

21 (D) in clause (vii), by inserting “reduced under
22 this subparagraph by” after “shall not be”.

23 (3) Section 4102(c)(2) of OBRA–1990 is amended
24 by striking “radiology services” and all that follows and
25 inserting “nuclear medicine services.”.

1 (4) Section 4102(d) of OBRA-1990 is amended by
2 striking “new paragraph” and inserting “new subpara-
3 graph”.

4 (5) Section 1834(b)(4)(E) (42 U.S.C.
5 1395m(b)(4)(E)) is amended by inserting “RULE FOR
6 CERTAIN SCANNING SERVICES.—” after “(E)”.

7 (6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-
8 4(a)(2)(D)(iii)) is amended by striking “that are subject
9 to section 6105(b) of the Omnibus Budget Reconciliation
10 Act of 1989” and by striking “provided under such sec-
11 tion” and inserting “provided under section 6105(b) of the
12 Omnibus Budget Reconciliation Act of 1989”.

13 (c) ANESTHESIA SERVICES.—(1) Section 4103(a) of
14 OBRA-1990 is amended by striking “REDUCTION IN FEE
15 SCHEDULE” and inserting “REDUCTION IN PREVAILING
16 CHARGES”.

17 (2) Section 1842(q)(1)(B) (42 U.S.C.
18 1395u(q)(1)(B)) is amended—

19 (A) in the matter before clause (i), by striking
20 “shall be determined as follows:” and inserting
21 “shall, subject to clause (iv), be reduced to the ad-
22 justed prevailing charge conversion factor for the lo-
23 cality determined as follows:”, and

24 (B) in clause (iii), by striking “Subject to
25 clause (iv), the prevailing charge conversion factor to

1 be applied in” and inserting “The adjusted prevail-
2 ing charge conversion factor for”.

3 (d) ASSISTANTS AT SURGERY.—(1) Section 4107(c)
4 of OBRA–1990 is amended by inserting “(a)(1)” after
5 “subsection”.

6 (2) Section 4107(a)(2) of OBRA–1990 is amended
7 by adding at the end the following: “In applying section
8 1848(g)(2)(D) of the Social Security Act for services of
9 an assistant-at-surgery furnished during 1991, the recog-
10 nized payment amount shall not exceed the maximum
11 amount specified under section 1848(i)(2)(A) of such Act
12 (as applied under this paragraph in such year).”.

13 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-
14 ICES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended
15 by redesignating paragraph (18), as added by section
16 4108(a) of OBRA–1990, as paragraph (17) and, in such
17 paragraph, by inserting “, tests specified in paragraph
18 (14)(C)(i),” after “diagnostic laboratory tests”.

19 (f) STATEWIDE FEE SCHEDULES.—Section 4117 of
20 OBRA–1990 is amended—

21 (1) in subsection (a)—

22 (A) by striking “(a) IN GENERAL.—”, and

23 (B) by striking “, if the” and all that fol-
24 lows through “1991,”; and

25 (2) by striking subsections (b), (c), and (d).

1 (g) OTHER MISCELLANEOUS AND TECHNICAL
2 AMENDMENTS.—(1) The heading of section 1834(f) (42
3 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

4 (2)(A) Section 4105(b) of OBRA–1990 is amended—
5 (i) in paragraph (2), by striking “amendments”
6 and inserting “amendment”, and

7 (ii) in paragraph (3), by striking “amendments
8 made by paragraphs (1) and (2)” and inserting
9 “amendment made by paragraph (1)”.

10 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–
11 4(f)(2)(C)) is amended by inserting “PERFORMANCE
12 STANDARD RATES OF INCREASE FOR FISCAL YEAR
13 1991.—” after “(C)”.

14 (C) Section 4105(d) of OBRA–1990 is amended by
15 inserting “PUBLICATION OF PERFORMANCE STANDARD
16 RATES.—” after “(d)”.

17 (3) Section 4106(c) of OBRA–1990 is amended by
18 inserting “of the Social Security Act” after
19 “1848(d)(1)(B)”.

20 (4) Section 4114 of OBRA–1990 is amended by
21 striking “patients” the second place it appears.

22 (5) Section 1848(e)(1)(C) (42 U.S.C. 1395w–
23 4(e)(1)(C)) is amended by inserting “date of the” after
24 “since the”.

1 (6) Section 4118(f)(1)(D) of OBRA-1990 is amend-
2 ed by striking “is amended”.

3 (7) Section 4118(f)(1)(N)(ii) of OBRA-1990 is
4 amended by striking “subsection (f)(5)(A)” and inserting
5 “subsection (f)(5)(A)”.

6 (8) Section 1845(e) (42 U.S.C. 1395w-1(e)) is
7 amended—

8 (A) by striking paragraph (2); and

9 (B) by redesignating paragraphs (3), (4), and
10 (5) as paragraphs (2), (3), and (4).

11 (9) Section 4118(j)(2) of OBRA-1990 is amended by
12 striking “In section” and inserting “Section”.

13 (10)(A) Section 1848(i)(3) (42 U.S.C. 1395w-
14 4(i)(3)) is amended by striking the space before the period
15 at the end.

16 (B) Section 1834(a)(10)(B) (42 U.S.C.
17 1395m(a)(10)(B)) is amended—

18 (i) by striking “apply to” and inserting “would
19 otherwise apply to”, and

20 (ii) by inserting before the period at the end
21 “but for the application of section 1848(i)(3)”.

22 (h) OTHER CORRECTIONS.—(1) Effective on the date
23 of the enactment of this Act, section 6102(d)(4) of
24 OBRA-1989 is amended by striking all that follows the
25 first sentence.

1 (2) Effective for payments for fiscal years beginning
2 with fiscal year 1994, section 1842(c)(1) (42 U.S.C.
3 1395u(c)(1)) is amended—

4 (A) in subparagraph (A), by striking “(A) Any
5 contract” and inserting “Any contract”; and

6 (B) by striking subparagraph (B).

7 (i) EFFECTIVE DATE.—Except as provided in sub-
8 section (i), the amendments made by this section and the
9 provisions of this section shall take effect as if included
10 in the enactment of OBRA-1990.

11 **PART II—DURABLE MEDICAL EQUIPMENT**

12 **SEC. 131. CERTIFICATION OF SUPPLIERS.**

13 (a) REQUIREMENTS.—

14 (1) IN GENERAL.—Section 1834 (42 U.S.C.
15 1395m), as amended by section 13544(b)(1) of
16 OBRA-1993, is amended by adding at the end the
17 following new subsection:

18 “(j) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
19 EQUIPMENT AND SUPPLIES.—

20 “(1) ISSUANCE AND RENEWAL OF SUPPLIER
21 NUMBER.—

22 “(A) PAYMENT.—Except as provided in
23 subparagraph (C), no payment may be made
24 under this part after the date of the enactment
25 of the Social Security Act Amendments of 1994

1 for items furnished by a supplier of medical
2 equipment and supplies unless such supplier ob-
3 tains (and renews at such intervals as the Sec-
4 retary may require) a supplier number.

5 “(B) STANDARDS FOR POSSESSING A SUP-
6 PLIER NUMBER.—A supplier may not obtain a
7 supplier number unless—

8 “(i) for medical equipment and sup-
9 plies furnished on or after the date of en-
10 actment of the Social Security Act Amend-
11 ments of 1994, and before January 1,
12 1996, the supplier meets standards pre-
13 scribed by the Secretary in regulations is-
14 sued on June 18, 1992; and

15 “(ii) for medical equipment and sup-
16 plies furnished on or after January 1,
17 1996, the supplier meets revised standards
18 prescribed by the Secretary (in consulta-
19 tion with representatives of suppliers of
20 medical equipment and supplies, carriers,
21 and consumers) that shall include require-
22 ments that the supplier—

23 “(I) comply with all applicable
24 State and Federal licensure and regu-
25 latory requirements;

1 “(II) maintain a physical facility
2 on an appropriate site;

3 “(III) have proof of appropriate
4 liability insurance; and

5 “(IV) meet such other require-
6 ments as the Secretary may specify.

7 “(C) EXCEPTION FOR ITEMS FURNISHED
8 AS INCIDENT TO A PHYSICIAN’S SERVICE.—
9 Subparagraph (A) shall not apply with respect
10 to medical equipment and supplies furnished in-
11 cident to a physician’s service.

12 “(D) PROHIBITION AGAINST MULTIPLE
13 SUPPLIER NUMBERS.—The Secretary may not
14 issue more than one supplier number to any
15 supplier of medical equipment and supplies un-
16 less the issuance of more than one number is
17 appropriate to identify subsidiary or regional
18 entities under the supplier’s ownership or con-
19 trol.

20 “(E) PROHIBITION AGAINST DELEGATION
21 OF SUPPLIER DETERMINATIONS.—The Sec-
22 retary may not delegate (other than by contract
23 under section 1842) the responsibility to deter-
24 mine whether suppliers meet the standards nec-
25 essary to obtain a supplier number.

1 “(2) CERTIFICATES OF MEDICAL NECESSITY.—

2 “(A) LIMITATION ON INFORMATION PRO-
3 VIDED BY SUPPLIERS ON CERTIFICATES OF
4 MEDICAL NECESSITY.—

5 “(i) IN GENERAL.—Effective 60 days
6 after the date of enactment of the Social
7 Security Act Amendments of 1994, a sup-
8 plier of medical equipment and supplies
9 may distribute to physicians, or to individ-
10 uals entitled to benefits under this part, a
11 certificate of medical necessity for commer-
12 cial purposes which contains no more than
13 the following information completed by the
14 supplier:

15 “(I) An identification of the sup-
16 plier and the beneficiary to whom
17 such medical equipment and supplies
18 are furnished.

19 “(II) A description of such medi-
20 cal equipment and supplies.

21 “(III) Any product code identify-
22 ing such medical equipment and sup-
23 plies.

24 “(IV) Any other administrative
25 information (other than information

1 relating to the beneficiary's medical
2 condition) identified by the Secretary.

3 “(ii) INFORMATION ON PAYMENT
4 AMOUNT AND CHARGES.—If a supplier dis-
5 tributes a certificate of medical necessity
6 containing any of the information per-
7 mitted to be supplied under clause (i), the
8 supplier shall also list on the certificate of
9 medical necessity the fee schedule amount
10 and the supplier's charge for the medical
11 equipment or supplies being furnished
12 prior to distribution of such certificate to
13 the physician.

14 “(iii) PENALTY.—Any supplier of
15 medical equipment and supplies who know-
16 ingly and willfully distributes a certificate
17 of medical necessity in violation of clause
18 (i) or fails to provide the information re-
19 quired under clause (ii) is subject to a civil
20 money penalty in an amount not to exceed
21 \$1,000 for each such certificate of medical
22 necessity so distributed. The provisions of
23 section 1128A (other than subsections (a)
24 and (b)) shall apply to civil money pen-
25 alties under this subparagraph in the same

1 manner as they apply to a penalty or pro-
2 ceeding under section 1128A(a).

3 “(B) DEFINITION.—For purposes of this
4 paragraph, the term ‘certificate of medical ne-
5 cessity’ means a form or other document con-
6 taining information required by the carrier to
7 be submitted to show that an item is reasonable
8 and necessary for the diagnosis or treatment of
9 illness or injury or to improve the functioning
10 of a malformed body member.

11 “(3) COVERAGE AND REVIEW CRITERIA.—The
12 Secretary shall annually review the coverage and uti-
13 lization of items of medical equipment and supplies
14 to determine whether such items should be made
15 subject to coverage and utilization review criteria,
16 and if appropriate, shall develop and apply such cri-
17 teria to such items.

18 “(4) DEFINITION.—The term ‘medical equip-
19 ment and supplies’ means—

20 “(A) durable medical equipment (as de-
21 fined in section 1861(n));

22 “(B) prosthetic devices (as described in
23 section 1861(s)(8));

24 “(C) orthotics and prosthetics (as de-
25 scribed in section 1861(s)(9));

1 “(D) surgical dressings (as described in
2 section 1861(s)(5));

3 “(E) such other items as the Secretary
4 may determine; and

5 “(F) for purposes of paragraphs (1) and
6 (3)—

7 “(i) home dialysis supplies and equip-
8 ment (as described in section
9 1861(s)(2)(F)),

10 “(ii) immunosuppressive drugs (as de-
11 scribed in section 1861(s)(2)(J)),

12 “(iii) therapeutic shoes for diabetics
13 (as described in section 1861(s)(12)),

14 “(iv) oral drugs prescribed for use as
15 an anticancer therapeutic agent (as de-
16 scribed in section 1861(s)(2)(Q)), and

17 “(v) self-administered erythropoetin
18 (as described in section 1861(s)(2)(P)).”.

19 (2) CONFORMING AMENDMENT.—Effective 60
20 days after the date of enactment of the Social Secu-
21 rity Act Amendments of 1994, paragraph (16) of
22 section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

23 (b) USE OF COVERED ITEMS BY DISABLED BENE-
24 FICIARIES.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services, in consultation with representa-
3 tives of suppliers of durable medical equipment
4 under part B of the medicare program and individ-
5 uals entitled to benefits under such program on the
6 basis of disability, shall conduct a study of the ef-
7 fects of the methodology for determining payments
8 for items of such equipment under such part on the
9 ability of such individuals to obtain items of such
10 equipment, including customized items.

11 (2) REPORT.—Not later than one year after the
12 date of the enactment of this Act, the Secretary
13 shall submit a report to Congress on the study con-
14 ducted under paragraph (1), and shall include in the
15 report such recommendations as the Secretary con-
16 siders appropriate to assure that disabled medicare
17 beneficiaries have access to items of durable medical
18 equipment.

19 (c) CRITERIA FOR TREATMENT OF ITEMS AS PROS-
20 THETIC DEVICES OR ORTHOTICS AND PROSTHETICS.—
21 Not later than one year after the date of the enactment
22 of this Act, the Secretary of Health and Human Services
23 shall submit a report to the Committees on Ways and
24 Means and Energy and Commerce of the House of Rep-
25 resentatives and the Committee on Finance of the Senate

1 describing prosthetic devices or orthotics and prosthetics
2 covered under part B of the medicare program that do
3 not require individualized or custom fitting and adjust-
4 ment to be used by a patient. Such report shall include
5 recommendations for an appropriate methodology for de-
6 termining the amount of payment for such items under
7 such program.

8 **SEC. 132. RESTRICTIONS ON CERTAIN MARKETING AND**
9 **SALES ACTIVITIES.**

10 (a) PROHIBITING UNSOLICITED TELEPHONE CON-
11 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-
12 MENT TO MEDICARE BENEFICIARIES.—

13 (1) IN GENERAL.—Section 1834(a) (42 U.S.C.
14 1395m(a)) is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(17) PROHIBITION AGAINST UNSOLICITED
17 TELEPHONE CONTACTS BY SUPPLIERS.—

18 “(A) IN GENERAL.—A supplier of a cov-
19 ered item under this subsection may not contact
20 an individual enrolled under this part by tele-
21 phone regarding the furnishing of a covered
22 item to the individual unless 1 of the following
23 applies:

24 “(i) The individual has given written
25 permission to the supplier to make contact

1 by telephone regarding the furnishing of a
2 covered item.

3 “(ii) The supplier has furnished a cov-
4 ered item to the individual and the supplier
5 is contacting the individual only regarding
6 the furnishing of such covered item.

7 “(iii) If the contact is regarding the
8 furnishing of a covered item other than a
9 covered item already furnished to the indi-
10 vidual, the supplier has furnished at least
11 1 covered item to the individual during the
12 15-month period preceding the date on
13 which the supplier makes such contact.

14 “(B) PROHIBITING PAYMENT FOR ITEMS
15 FURNISHED SUBSEQUENT TO UNSOLICITED
16 CONTACTS.—If a supplier knowingly contacts
17 an individual in violation of subparagraph (A),
18 no payment may be made under this part for
19 any item subsequently furnished to the individ-
20 ual by the supplier.

21 “(C) EXCLUSION FROM PROGRAM FOR
22 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
23 LICITED CONTACTS.—If a supplier knowingly
24 contacts individuals in violation of subpara-
25 graph (A) to such an extent that the supplier’s

1 conduct establishes a pattern of contacts in vio-
2 lation of such subparagraph, the Secretary shall
3 exclude the supplier from participation in the
4 programs under this Act, in accordance with
5 the procedures set forth in subsections (c), (f),
6 and (g) of section 1128.”.

7 (2) REQUIRING REFUND OF AMOUNTS COL-
8 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
9 (42 U.S.C. 1395m(a)), as amended by paragraph
10 (1), is amended by adding at the end the following
11 new paragraph:

12 “(18) REFUND OF AMOUNTS COLLECTED FOR
13 CERTAIN DISALLOWED ITEMS.—

14 “(A) IN GENERAL.—If a nonparticipating
15 supplier furnishes to an individual enrolled
16 under this part a covered item for which no
17 payment may be made under this part by rea-
18 son of paragraph (17)(B), the supplier shall re-
19 fund on a timely basis to the patient (and shall
20 be liable to the patient for) any amounts col-
21 lected from the patient for the item, unless—

22 “(i) the supplier establishes that the
23 supplier did not know and could not rea-
24 sonably have been expected to know that

1 payment may not be made for the item by
2 reason of paragraph (17)(B), or

3 “(ii) before the item was furnished,
4 the patient was informed that payment
5 under this part may not be made for that
6 item and the patient has agreed to pay for
7 that item.

8 “(B) SANCTIONS.—If a supplier knowingly
9 and willfully fails to make refunds in violation
10 of subparagraph (A), the Secretary may apply
11 sanctions against the supplier in accordance
12 with section 1842(j)(2).

13 “(C) NOTICE.—Each carrier with a con-
14 tract in effect under this part with respect to
15 suppliers of covered items shall send any notice
16 of denial of payment for covered items by rea-
17 son of paragraph (17)(B) and for which pay-
18 ment is not requested on an assignment-related
19 basis to the supplier and the patient involved.

20 “(D) TIMELY BASIS DEFINED.—A refund
21 under subparagraph (A) is considered to be on
22 a timely basis only if—

23 “(i) in the case of a supplier who does
24 not request reconsideration or seek appeal
25 on a timely basis, the refund is made with-

1 in 30 days after the date the supplier re-
2 ceives a denial notice under subparagraph
3 (C), or

4 “(ii) in the case in which such a re-
5 consideration or appeal is taken, the re-
6 fund is made within 15 days after the date
7 the supplier receives notice of an adverse
8 determination on reconsideration or ap-
9 peal.”.

10 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)
11 (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-
12 graph (12)” and inserting “Paragraphs (12) and (17)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall apply to items furnished after
15 the expiration of the 60-day period that begins on the date
16 of the enactment of this Act.

17 **SEC. 133. BENEFICIARY LIABILITY FOR NONCOVERED**
18 **SERVICES.**

19 (a) UNASSIGNED CLAIMS.—

20 (1) IN GENERAL.—Section 1834(j) (42 U.S.C.
21 1395m(i)), as added by section 131(a)(1), is amend-
22 ed—

23 (A) by redesignating paragraph (4) as
24 paragraph (5), and

1 (B) by inserting after paragraph (3) the
2 following new paragraph:

3 “(4) LIMITATION ON PATIENT LIABILITY.—If a
4 supplier of medical equipment and supplies (as de-
5 fined in paragraph (5))—

6 “(A) furnishes an item or service to a ben-
7 eficiary for which no payment may be made by
8 reason of paragraph (1);

9 “(B) furnishes an item or service to a ben-
10 eficiary for which payment is denied in advance
11 under subsection (a)(15); or

12 “(C) furnishes an item or service to a ben-
13 eficiary for which payment is denied under sec-
14 tion 1862(a)(1);

15 any expenses incurred for items and services fur-
16 nished to an individual by such a supplier not on an
17 assigned basis shall be the responsibility of such
18 supplier. The individual shall have no financial re-
19 sponsibility for such expenses and the supplier shall
20 refund on a timely basis to the individual (and shall
21 be liable to the individual for) any amounts collected
22 from the individual for such items or services. The
23 provisions of subsection (a)(18) shall apply to re-
24 funds required under the previous sentence in the

1 same manner as such provisions apply to refunds
2 under such subsection.”.

3 (2) CONFORMING AMENDMENT.—Section
4 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as
5 amended by section 134(a), is amended by striking
6 “1834(j)(4)” and inserting “1834(j)(5)”.

7 (b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C.
8 1395pp) is amended by adding at the end the following
9 new subsection:

10 “(h) If a supplier of medical equipment and supplies
11 (as defined in section 1834(j)(5))—

12 “(1) furnishes an item or service to a bene-
13 ficiary for which no payment may be made by reason
14 of section 1834(j)(1);

15 “(2) furnishes an item or service to a bene-
16 ficiary for which payment is denied in advance under
17 section 1834(a)(15); or

18 “(3) furnishes an item or service to a bene-
19 ficiary for which no payment may be made by reason
20 of section 1834(a)(17)(B),

21 any expenses incurred for items and services furnished to
22 an individual by such a supplier on an assignment-related
23 basis shall be the responsibility of such supplier. The indi-
24 vidual shall have no financial responsibility for such ex-
25 penses and the supplier shall refund on a timely basis to

1 the individual (and shall be liable to the individual for)
2 any amounts collected from the individual for such items
3 or services. The provisions of section 1834(a)(18) shall
4 apply to refunds required under the previous sentence in
5 the same manner as such provisions apply to refunds
6 under such section.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to items or services furnished on
9 or after January 1, 1995.

10 **SEC. 134. ADJUSTMENTS FOR INHERENT REASONABLE-**
11 **NESS.**

12 (a) ADJUSTMENTS MADE TO FINAL PAYMENT
13 AMOUNTS.—

14 (1) IN GENERAL.—Section 1834(a)(10)(B) (42
15 U.S.C. 1395m(a)(10)(B)) is amended by adding at
16 the end the following: “In applying such provisions
17 to payments for an item under this subsection, the
18 Secretary shall make adjustments to the payment
19 basis for the item described in paragraph (1)(B) if
20 the Secretary determines (in accordance with such
21 provisions and on the basis of prices and costs appli-
22 cable at the time the item is furnished) that such
23 payment basis is not inherently reasonable.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall take effect on the date of the
3 enactment of this Act.

4 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

5 (1) IN GENERAL.—In accordance with section
6 1834(a)(10)(B) of the Social Security Act (as
7 amended by subsection (a)), the Secretary of Health
8 and Human Services shall determine whether the
9 payment amounts for the items described in para-
10 graph (2) are not inherently reasonable, and shall
11 adjust such amounts in accordance with such section
12 if the amounts are not inherently reasonable.

13 (2) ITEMS DESCRIBED.—The items referred to
14 in paragraph (1) are decubitus care equipment,
15 transcutaneous electrical nerve stimulators, and any
16 other items considered appropriate by the Secretary.

17 **SEC. 135. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

18 (a) UPDATES TO PAYMENT AMOUNTS.—(1) Subpara-
19 graph (A) of section 1834(a)(14) (42 U.S.C.
20 1395m(a)(14)) is amended to read as follows:

21 “(A) for 1991 and 1992, the percentage
22 increase in the consumer price index for all
23 urban consumers (U.S. city average) for the 12-
24 month period ending with June of the previous
25 year reduced by 1 percentage point; and”.

1 (2) The amendment made by paragraph (1) shall be
2 effective on the date of the enactment of this Act.

3 (b) ADVANCE DETERMINATIONS OF COVERAGE.—(1)
4 Effective on the date of the enactment of this Act, section
5 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to
6 read as follows:

7 “(15) ADVANCE DETERMINATIONS OF COV-
8 ERAGE FOR CERTAIN ITEMS.—

9 “(A) DEVELOPMENT OF LISTS OF ITEMS
10 BY SECRETARY.—The Secretary may develop
11 and periodically update a list of items for which
12 payment may be made under this subsection
13 that the Secretary determines, on the basis of
14 prior payment experience, are frequently subject
15 to unnecessary utilization throughout a carrier’s
16 entire service area or a portion of such area.

17 “(B) DEVELOPMENT OF LISTS OF SUPPLI-
18 ERS BY SECRETARY.—The Secretary may de-
19 velop and periodically update a list of suppliers
20 of items for which payment may be made under
21 this subsection with respect to whom—

22 “(i) the Secretary has found that a
23 substantial number of claims for payment
24 under this part for items furnished by the

1 supplier have been denied on the basis of
2 the application of section 1862(a)(1); or

3 “(ii) the Secretary has identified a
4 pattern of overutilization resulting from
5 the business practice of the supplier.

6 “(C) DETERMINATIONS OF COVERAGE IN
7 ADVANCE.—A carrier shall determine in ad-
8 vance of delivery of an item whether payment
9 for the item may not be made because the item
10 is not covered or because of the application of
11 section 1862(a)(1) if—

12 “(i) the item is included on the list
13 developed by the Secretary under subpara-
14 graph (A);

15 “(ii) the item is furnished by a sup-
16 plier included on the list developed by the
17 Secretary under subparagraph (B); or

18 “(iii) the item is a customized item
19 (other than inexpensive items specified by
20 the Secretary) and the patient to whom the
21 item is to be furnished or the supplier re-
22 quests that such advance determination be
23 made.”.

24 (2) Effective for standards applied for contract years
25 beginning after the date of the enactment of this Act, sec-

1 tion 1842(c) (42 U.S.C. 1395u(c)), as amended by section
2 125(a), is amended by adding at the end the following new
3 paragraph:

4 “(5) Each contract under this section which provides
5 for the disbursement of funds, as described in subsection
6 (a)(1)(B), shall require the carrier to meet criteria devel-
7 oped by the Secretary to measure the timeliness of carrier
8 responses to requests for payment of items described in
9 section 1834(a)(15)(C).”.

10 (3) Effective on the date of the enactment of this Act,
11 section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as amended
12 by section 133(b), is amended by striking “(12) and (17)”
13 and inserting “(12), (15), and (17)”.

14 (c) STUDY OF VARIATIONS IN DURABLE MEDICAL
15 EQUIPMENT SUPPLIER COSTS.—

16 (1) COLLECTION AND ANALYSIS OF SUPPLIER
17 COST DATA.—The Administrator of the Health Care
18 Financing Administration shall, in consultation with
19 appropriate organizations, collect data on supplier
20 costs of durable medical equipment for which pay-
21 ment may be made under part B of the medicare
22 program, and shall analyze such data to determine
23 the proportions of such costs attributable to the
24 service and product components of furnishing such
25 equipment and the extent to which such proportions

1 vary by type of equipment and by the geographic re-
2 gion in which the supplier is located.

3 (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-
4 MENT INDEX; REPORTS.—Not later than July 1,
5 1995—

6 (A) the Administrator shall submit a re-
7 port to the Committees on Energy and Com-
8 merce and Ways and Means of the House of
9 Representatives and the Committee on Finance
10 of the Senate on the data collected and the
11 analysis conducted under paragraph (1), and
12 shall include in such report the Administrator's
13 recommendations for a geographic cost adjust-
14 ment index for suppliers of durable medical
15 equipment under the medicare program and an
16 analysis of the impact of such proposed index
17 on payments under the medicare program; and

18 (B) the Comptroller General shall submit a
19 report to the Committees on Energy and Com-
20 merce and Ways and Means of the House of
21 Representatives and the Committee on Finance
22 of the Senate analyzing on a geographic basis
23 the supplier costs of durable medical equipment
24 under the medicare program.

1 (d) OXYGEN RETESTING.—(1) Section
2 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by
3 striking “55” and inserting “56”.

4 (2) The amendment made by paragraph (1) shall be
5 effective on the date of the enactment of this Act.

6 (e) OTHER MISCELLANEOUS AND TECHNICAL
7 AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990
8 is amended by striking “amendment made by subsection
9 (a)” and inserting “amendments made by this sub-
10 section”.

11 (2) Section 4152(c)(2) of OBRA–1990 is amended
12 by striking “1395m(a)(7)(A)” and inserting
13 “1395m(a)(7)”.

14 (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.
15 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause
16 (v)” and inserting “clause (vi)”.

17 (4) Section 1834(a)(7)(C)(i) (42 U.S.C.
18 1395m(a)(7)(C)(i)) is amended by striking “or paragraph
19 (3)”.

20 (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is
21 amended by striking subparagraph (D).

22 (6) Section 4153(c)(1) of OBRA–1990 is amended
23 by striking “1834(a)” and inserting “1834(h)”.

1 (7) Section 4153(d)(2) of OBRA-1990 is amended
2 by striking “Reconciliation” and inserting “Reconcili-
3 ation”.

4 (8) The amendments made by this subsection shall
5 take effect as if included in the enactment of OBRA-1990.

6 **PART III—OTHER ITEMS AND SERVICES**

7 **SEC. 141. AMBULATORY SURGICAL CENTER SERVICES.**

8 (a) PAYMENT AMOUNTS FOR SERVICES FURNISHED
9 IN AMBULATORY SURGICAL CENTERS.—

10 (1) USE OF SURVEY TO DETERMINE INCURRED
11 COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C.
12 1395l(i)(2)(A)(i)) is amended by striking the comma
13 at the end and inserting the following: “, as deter-
14 mined in accordance with a survey (based upon a
15 representative sample of procedures and facilities)
16 taken not later than January 1, 1995, and every 5
17 years thereafter, of the actual audited costs incurred
18 by such centers in providing such services,”.

19 (2) AUTOMATIC APPLICATION OF INFLATION
20 ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C.
21 1395l(i)(2)) is amended—

22 (A) in the second sentence of subpara-
23 graph (A) and the second sentence of subpara-
24 graph (B), by striking “and may be adjusted by
25 the Secretary, when appropriate,”; and

1 (B) by adding at the end the following new
2 subparagraph:

3 “(C) Notwithstanding the second sentence of sub-
4 paragraph (A) or the second sentence of subparagraph
5 (B), if the Secretary has not updated amounts established
6 under such subparagraphs with respect to facility services
7 furnished during a fiscal year (beginning with fiscal year
8 1996), such amounts shall be increased by the percentage
9 increase in the consumer price index for all urban consum-
10 ers (U.S. city average) as estimated by the Secretary for
11 the 12-month period ending with the midpoint of the year
12 involved.”.

13 (3) CONSULTATION REQUIREMENT.—The sec-
14 ond sentence of section 1833(i)(1) (42 U.S.C.
15 1395l(i)(1)) is amended by striking the period and
16 inserting the following: “, in consultation with ap-
17 propriate trade and professional organizations.”.

18 (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW
19 TECHNOLOGY INTRAOCULAR LENSES.—

20 (1) ESTABLISHMENT OF PROCESS FOR REVIEW
21 OF AMOUNTS.—Not later than 1 year after the date
22 of the enactment of this Act, the Secretary of
23 Health and Human Services (in this subsection re-
24 ferred to as the “Secretary”) shall develop and im-
25 plement a process under which interested parties

1 may request review by the Secretary of the appro-
2 priateness of the reimbursement amount provided
3 under section 1833(i)(2)(A)(iii) of the Social Secu-
4 rity Act with respect to a class of new technology
5 intraocular lenses. For purposes of the preceding
6 sentence, an intraocular lens may not be treated as
7 a new technology lens unless it has been approved
8 by the Food and Drug Administration.

9 (2) FACTORS CONSIDERED.—In determining
10 whether to provide an adjustment of payment with
11 respect to a particular lens under paragraph (1), the
12 Secretary shall take into account whether use of the
13 lens is likely to result in reduced risk of
14 intraoperative or postoperative complication or trau-
15 ma, accelerated postoperative recovery, reduced in-
16 duced astigmatism, improved postoperative visual
17 acuity, more stable postoperative vision, or other
18 comparable clinical advantages.

19 (3) NOTICE AND COMMENT.—The Secretary
20 shall publish notice in the Federal Register from
21 time to time (but no less often than once each year)
22 of a list of the requests that the Secretary has re-
23 ceived for review under this subsection, and shall
24 provide for a 30-day comment period on the lenses
25 that are the subjects of the requests contained in

1 such notice. The Secretary shall publish a notice of
2 the Secretary's determinations with respect to intra-
3 ocular lenses listed in the notice within 90 days after
4 the close of the comment period.

5 (4) EFFECTIVE DATE OF ADJUSTMENT.—Any
6 adjustment of a payment amount (or payment limit)
7 made under this subsection shall become effective
8 not later than 30 days after the date on which the
9 notice with respect to the adjustment is published
10 under paragraph (3).

11 (c) TECHNICAL CORRECTION RELATING TO BLEND
12 AMOUNTS FOR AMBULATORY SURGICAL CENTER PAY-
13 MENTS.—

14 (1) IN GENERAL.—Subclauses (I) and (II) of
15 section 1833(i)(3)(B)(ii) (42 U.S.C.
16 13951(i)(3)(B)(ii)) are each amended—

17 (A) by striking “for reporting” and insert-
18 ing “for portions of cost reporting”; and

19 (B) by striking “and on or before” and in-
20 serting “and ending on or before”.

21 (2) EFFECTIVE DATE.—The amendments made
22 by paragraph (1) shall take effect as if included in
23 the enactment of OBRA–1990.

24 (d) TECHNICAL CORRECTION RELATED TO CATA-
25 RACT SURGERY.—Effective as if included in the enact-

1 ment of OBRA–1990, section 4151(c)(3) of such Act is
2 amended by striking “for the insertion of an intraocular
3 lens” and inserting “for an intraocular lens inserted”.

4 **SEC. 142. STUDY OF MEDICARE COVERAGE OF PATIENT**
5 **CARE COSTS ASSOCIATED WITH CLINICAL**
6 **TRIALS OF NEW CANCER THERAPIES.**

7 (a) STUDY.—The Secretary of Health and Human
8 Services shall conduct a study of the effects of expressly
9 covering under the medicare program the patient care
10 costs for beneficiaries enrolled in clinical trials of new can-
11 cer therapies, where the protocol for the trial has been
12 approved by the National Cancer Institute or meets simi-
13 lar scientific and ethical standards, including approval by
14 an institutional review board. The study shall include—

15 (1) an estimate of the cost of such coverage,
16 taking into account the extent to which medicare
17 currently pays for such patient care costs in prac-
18 tice;

19 (2) an assessment of the extent to which such
20 clinical trials represent the best available treatment
21 for the patients involved and of the effects of partici-
22 pation in the trials on the health of such patients;

23 (3) an assessment of whether progress in devel-
24 oping new anticancer therapies would be assisted by
25 medicare coverage of such patient care costs; and

1 (4) an evaluation of whether there should be
2 special criteria for the admission of medicare bene-
3 ficiaries (on account of their age or physical condi-
4 tion) to clinical trials for which medicare would pay
5 the patient care costs.

6 (b) REPORT.—Not later than 2 years after the date
7 of the enactment of this Act, the Secretary of Health and
8 Human Services shall submit a report on the study con-
9 ducted under subsection (a) to the Committee on Ways
10 and Means and the Committee on Energy and Commerce
11 of the House of Representatives and the Committee on
12 Finance of the Senate. Such report shall include rec-
13 ommendations as to the coverage under the medicare pro-
14 gram of patient care costs of beneficiaries enrolled in clini-
15 cal trials of new cancer therapies.

16 **SEC. 143. STUDY OF ANNUAL CAP ON AMOUNT OF MEDI-**
17 **CARE PAYMENT FOR OUTPATIENT PHYSICAL**
18 **THERAPY AND OCCUPATIONAL THERAPY**
19 **SERVICES.**

20 (a) STUDY.—The Secretary of Health and Human
21 Services shall conduct a study of the appropriateness of
22 continuing an annual limitation on the amount of payment
23 for outpatient services of independently practicing physical
24 and occupational therapists under the medicare program.

1 (b) REPORT.—By not later than January 1, 1996,
2 the Secretary shall submit to the Committees on Energy
3 and Commerce and Ways and Means of the House of Rep-
4 resentatives and the Committee on Finance of the Senate
5 a report on the study conducted under subsection (a).
6 Such report shall include such recommendations for
7 changes in such annual limitation as the Secretary finds
8 appropriate.

9 **SEC. 144. PAYMENT OF PART B PREMIUM LATE ENROLL-**
10 **MENT PENALTIES BY STATES.**

11 Section 1839 (42 U.S.C. 1395r) is amended by add-
12 ing at the end the following new subsection:

13 “(g)(1) Upon the request of a State, the Secretary
14 may enter into an agreement with the State under which
15 the State agrees to pay on a quarterly or other periodic
16 basis to the Secretary (to be deposited in the Treasury
17 to the credit of the Federal Supplementary Medical Insur-
18 ance Trust Fund) an amount equal to the amount of the
19 part B late enrollment premium increases with respect to
20 the premiums for eligible individuals (as defined in para-
21 graph (3)(A)).

22 “(2) No part B late enrollment premium increase
23 shall apply to an eligible individual for premiums for
24 months for which the amount of such an increase is pay-
25 able under an agreement under paragraph (1).

1 “(3) In this subsection:

2 “(A) The term ‘eligible individual’ means an in-
3 dividual who is enrolled under this part B and who
4 is within a class of individuals specified in the agree-
5 ment under paragraph (1).

6 “(B) The term ‘part B late enrollment premium
7 increase’ means any increase in a premium as a re-
8 sult of the application of subsection (b).”.

9 **SEC. 145. APPLICATION OF MAMMOGRAPHY CERTIFI-**
10 **CATION REQUIREMENTS.**

11 (a) **SCREENING MAMMOGRAPHY.**—Section 1834(c)
12 (42 U.S.C. 1395m(c)) is amended—

13 (1) in paragraph (1)(B), by striking “meets the
14 quality standards established under paragraph (3)”
15 and inserting “is conducted by a facility that has a
16 certificate (or provisional certificate) issued under
17 section 354 of the Public Health Service Act”;

18 (2) in paragraph (1)(C)(iii), by striking “para-
19 graph (4)” and inserting “paragraph (3)”;

20 (3) by striking paragraph (3); and

21 (4) by redesignating paragraphs (4) and (5) as
22 paragraphs (3) and (4).

23 (b) **DIAGNOSTIC MAMMOGRAPHY.**—Section
24 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by insert-
25 ing “and including diagnostic mammography if conducted

1 by a facility that has a certificate (or provisional certifi-
2 cate) issued under section 354 of the Public Health Serv-
3 ice Act” after “necessary”.

4 (c) CONFORMING AMENDMENTS.—(1) Section
5 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by
6 striking “or which does not meet the standards established
7 under section 1834(c)(3)” and inserting “or which is not
8 conducted by a facility described in section
9 1834(c)(1)(B)”.

10 (2) Section 1863 (42 U.S.C. 1395z) is amended by
11 striking “or whether screening mammography meets the
12 standards established under section 1834(c)(3),”.

13 (3) The first sentence of section 1864(a) (42 U.S.C.
14 1395aa(a)) is amended by striking “, or whether screening
15 mammography meets the standards established under sec-
16 tion 1834(c)(3)”.

17 (4) The third sentence of section 1865(a) (42 U.S.C.
18 1395bb(a)) is amended by striking “1834(c)(3),”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to mammography furnished by a
21 facility on and after the first date that the certificate re-
22 quirements of section 354(b) of the Public Health Service
23 Act apply to such mammography conducted by such facil-
24 ity.

1 **SEC. 146. COVERAGE OF SERVICES OF SPEECH-LANGUAGE**
2 **PATHOLOGISTS AND AUDIOLOGISTS.**

3 (a) SERVICES DEFINED.—Section 1861 (42 U.S.C.
4 1395x), as amended by section 148(f)(6)(E), is amended
5 by inserting after subsection (kk) the following new sub-
6 section:

7 “Speech-Language Pathology Services; Audiology
8 Services

9 “(ll)(1) The term ‘speech-language pathology serv-
10 ices’ means such speech, language, and related function
11 assessment and rehabilitation services furnished by a
12 qualified speech-language pathologist as the speech-lan-
13 guage pathologist is legally authorized to perform under
14 State law (or the State regulatory mechanism provided by
15 State law) as would otherwise be covered if furnished by
16 a physician.

17 “(2) The term ‘audiology services’ means such hear-
18 ing and balance assessment services furnished by a quali-
19 fied audiologist as the audiologist is legally authorized to
20 perform under State law (or the State regulatory mecha-
21 nism provided by State law), as would otherwise be cov-
22 ered if furnished by a physician.

23 “(3) In this subsection:

24 “(A) The term ‘qualified speech-language pa-
25 thologist’ means an individual with a master’s or
26 doctoral degree in speech-language pathology who—

1 “(i) is licensed as a speech-language pa-
2 thologist by the State in which the individual
3 furnishes such services, or

4 “(ii) in the case of an individual who fur-
5 nishes services in a State which does not license
6 speech-language pathologists, has successfully
7 completed 350 clock hours of supervised clinical
8 practicum (or is in the process of accumulating
9 such supervised clinical experience), performed
10 not less than 9 months of supervised full-time
11 speech-language pathology services after obtain-
12 ing a master’s or doctoral degree in speech-lan-
13 guage pathology or a related field, and success-
14 fully completed a national examination in
15 speech-language pathology approved by the Sec-
16 retary.

17 “(B) The term ‘qualified audiologist’ means an
18 individual with a master’s or doctoral degree in
19 audiology who—

20 “(i) is licensed as an audiologist by the
21 State in which the individual furnishes such
22 services, or

23 “(ii) in the case of an individual who fur-
24 nishes services in a State which does not license
25 audiologists has successfully completed 350

1 clock hours of supervised clinical practicum (or
2 is in the process of accumulating such super-
3 vised clinical experience), performed not less
4 than 9 months of supervised full-time audiology
5 services after obtaining a master's or doctoral
6 degree in audiology or a related field, and suc-
7 cessfully completed a national examination in
8 audiology approved by the Secretary.”.

9 (b) CONFORMING AMENDMENTS RELATING TO MED-
10 ICARE TREATMENT OF SPEECH AND LANGUAGE SERV-
11 ICES.—

12 (1) EXTENDED CARE SERVICES.—Section
13 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by
14 striking “, occupational, or speech therapy” and in-
15 sserting “or occupational therapy or speech-language
16 pathology services”.

17 (2) HOME HEALTH SERVICES.—Section
18 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by
19 striking “, occupational, or speech therapy” and in-
20 sserting “or occupational therapy or speech-language
21 pathology services”.

22 (3) OUTPATIENT PHYSICAL THERAPY SERV-
23 ICES.—The fourth sentence of section 1861(p) (42
24 U.S.C. 1395x(p)) is amended by striking “speech

1 pathology services” and inserting “speech-language
2 pathology services”.

3 (4) COMPREHENSIVE OUTPATIENT REHABILITA-
4 TION FACILITY SERVICES.—Section 1861(cc)(1)(B)
5 (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking
6 “speech pathology services” and inserting “speech-
7 language pathology services”.

8 (5) HOSPICE CARE.—Section 1861(dd)(1)(B)
9 (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking
10 “therapy or speech-language pathology” and insert-
11 ing “therapy, or speech-language pathology serv-
12 ices”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on January 1, 1995.

15 **SEC. 147. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

16 (a) REVISION OF INFORMATION ON PART B CLAIMS
17 FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is
18 amended—

19 (1) by striking “provider number” and inserting
20 “unique physician identification number”; and

21 (2) by striking “and indicate whether or not the
22 referring physician is an interested investor (within
23 the meaning of section 1877(h)(5))”.

1 (b) CONSULTATION FOR SOCIAL WORKERS.—Effec-
2 tive with respect to services furnished on or after January
3 1, 1991, section 6113(c) of OBRA-1989 is amended—

4 (1) by inserting “and clinical social worker
5 services” after “psychologist services”; and

6 (2) by striking “psychologist” the second and
7 third place it appears and inserting “psychologist or
8 clinical social worker”.

9 (c) REPORTS ON HOSPITAL OUTPATIENT PAY-
10 MENT.—(1) OBRA-1989 is amended by striking section
11 6137.

12 (2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is
13 amended—

14 (A) by striking paragraph (6); and

15 (B) in paragraph (7)—

16 (i) by striking “systems” each place it ap-
17 pears and inserting “system”; and

18 (ii) by striking “paragraphs (1) and (6)”
19 and inserting “paragraph (1)”.

20 (d) RADIOLOGY AND DIAGNOSTIC SERVICES PRO-
21 VIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1)
22 Effective as if included in the enactment of OBRA-1989,
23 section 1833(n)(1)(B)(i)(II) (42 U.S.C.
24 1395l(n)(1)(B)(i)(II)) is amended—

1 (A) by inserting “and for services described in
2 subsection (a)(2)(E)(ii) furnished on or after Janu-
3 ary 1, 1992” after “1989”; and

4 (B) by striking “1842(b)” and inserting
5 “1842(b) (or, in the case of services furnished on or
6 after January 1, 1992, under section 1848)”.

7 (2) Effective as if included in the enactment of
8 OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.
9 1395l(n)(1)(B)(i)(II)) is amended by striking “January 1,
10 1989” and inserting “April 1, 1989”.

11 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL
12 AREAS (SECTION 4155 OF OBRA–1990).—(1) Section
13 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is
14 amended—

15 (A) by striking “subsection (aa)(3)” and insert-
16 ing “subsection (aa)(5)”; and

17 (B) by striking “subsection (aa)(4)” and insert-
18 ing “subsection (aa)(6)”.

19 (2) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is
20 amended—

21 (A) by striking “ambulatory” each place it ap-
22 pears and inserting “or ambulatory”; and

23 (B) by striking “center,” and inserting “cen-
24 ter”.

1 (3) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))
2 is amended by striking “subsection (a)(1)(M)” and insert-
3 ing “subsection (a)(1)(O)”.

4 (4) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is
5 amended by striking “subsection (s)(2)(K)(i)” and insert-
6 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

7 (5) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is
8 amended by striking “this Act” and inserting “this title”.

9 (6) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is
10 amended by striking “1861(s)(2)(K)(i)” and inserting
11 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

12 (7) Section 1866(a)(1)(H) (42 U.S.C.
13 1395cc(a)(1)(H)) is amended by striking
14 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or
15 1861(s)(2)(K)(iii)”.

16 (f) OTHER MISCELLANEOUS AND TECHNICAL
17 AMENDMENTS.—

18 (1) IMMEDIATE ENROLLMENT IN PART B BY IN-
19 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED
20 PLAN.—(A) Subparagraphs (A) and (B) of section
21 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amend-
22 ed—

23 (i) by striking “beginning with the first
24 day of the first month in which the individual
25 is no longer enrolled” and inserting “including

1 each month during any part of which the indi-
2 vidual is enrolled”; and

3 (ii) by striking “and ending seven months
4 later” and inserting “ending with the last day
5 of the eighth consecutive month in which the in-
6 dividual is at no time so enrolled”.

7 (B) Paragraphs (1) and (2) of section 1838(e)
8 (42 U.S.C. 1395q(e)) are amended to read as fol-
9 lows:

10 “(1) in any month of the special enrollment pe-
11 riod in which the individual is at any time enrolled
12 in a plan (specified in subparagraph (A) or (B), as
13 applicable, of section 1837(i)(3)) or in the first
14 month following such a month, the coverage period
15 shall begin on the first day of the month in which
16 the individual so enrolls (or, at the option of the in-
17 dividual, on the first day of any of the following
18 three months), or

19 “(2) in any other month of the special enroll-
20 ment period, the coverage period shall begin on the
21 first day of the month following the month in which
22 the individual so enrolls.”.

23 (C) The amendments made by subparagraphs
24 (A) and (B) shall take effect on the first day of the
25 first month that begins after the expiration of the

1 120-day period that begins on the date of the enact-
2 ment of this Act.

3 (2) CLINICAL DIAGNOSTIC LABORATORY
4 TESTS.—Section 4154(e)(5) of OBRA–1990 is
5 amended by striking “(1)(A)” and inserting
6 “(1)(A),”.

7 (3) SEPARATE PAYMENT UNDER PART B FOR
8 CERTAIN SERVICES.—Section 4157(a) of OBRA–
9 1990 is amended by striking “(a) SERVICES OF”
10 and all that follows through “Section” and inserting
11 “(a) TREATMENT OF SERVICES OF CERTAIN
12 HEALTH PRACTITIONERS.—Section”.

13 (4) COMMUNITY HEALTH CENTERS AND RURAL
14 HEALTH CLINICS.—(A) The fourth sentence of sec-
15 tion 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is
16 amended—

17 (i) by striking “certification” the first
18 place it appears and inserting “approval”; and

19 (ii) by striking “the Secretary’s approval
20 or disapproval of the certification” and insert-
21 ing “Secretary’s approval or disapproval”.

22 (B) Section 4161(a)(7)(B) of OBRA–1990 is
23 amended by inserting “and to the Committee on Fi-
24 nance of the Senate” after “Representatives”.

1 (5) SCREENING MAMMOGRAPHY.—Section 4163
2 of OBRA-1990 is amended—

3 (A) by adding at the end of subsection (d)
4 the following new paragraph:

5 “(3) The amendment made by paragraph
6 (2)(A)(iv) shall apply to screening pap smears per-
7 formed on or after July 1, 1990.”; and

8 (B) in subsection (e), by striking “The
9 amendments” and inserting “Except as pro-
10 vided in subsection (d)(3), the amendments”.

11 (6) INJECTABLE DRUGS FOR TREATMENT OF
12 OSTEOPOROSIS.—

13 (A) CLARIFICATION OF DRUGS COV-
14 ERED.—The section 1861(jj) (42 U.S.C.
15 1395x(jj)) inserted by section 4156(a)(2) of
16 OBRA-1990 is amended—

17 (i) in the matter preceding paragraph
18 (1), by striking “a bone fracture related
19 to”; and

20 (ii) in paragraph (1), by striking “pa-
21 tient” and inserting “individual has suf-
22 fered a bone fracture related to post-meno-
23 pausal osteoporosis and that the individ-
24 ual”.

1 (B) LIMITING COVERAGE TO DRUGS PRO-
2 VIDED BY HOME HEALTH AGENCIES.—(i) The
3 section 1861(jj) (42 U.S.C. 1395x(jj)) inserted
4 by section 4156(a)(2) of OBRA–1990 is
5 amended by striking “if” and inserting “by a
6 home health agency if”.

7 (ii) Section 1861(m)(5) (42 U.S.C.
8 1395x(m)(5)) is amended by striking “but ex-
9 cluding” and inserting “and a covered
10 osteoporosis drug (as defined in subsection
11 (kk), but excluding other”.

12 (iii) Section 1861(s)(2) (42 U.S.C.
13 1395x(s)(2)) is amended—

14 (I) by adding “and” at the end of
15 subparagraph (N), and

16 (II) by striking subparagraph (O) and
17 redesignating subparagraph (P) as sub-
18 paragraph (O).

19 (C) PAYMENT BASED ON REASONABLE
20 COST.—Section 1833(a)(2) (42 U.S.C.
21 1395l(a)(2)) is amended—

22 (i) in subparagraph (A), by striking
23 “health services” and inserting “health
24 services (other than a covered osteoporosis
25 drug (as defined in section 1861(kk)))”;

1 (ii) by striking “and” at the end of
2 subparagraph (D);

3 (iii) by striking the semicolon at the
4 end of subparagraph (E) and inserting “;
5 and”; and

6 (iv) by adding at the end the following
7 new subparagraph:

8 “(F) with respect to a covered osteoporosis
9 drug (as defined in section 1861(kk)) furnished
10 by a home health agency, 80 percent of the rea-
11 sonable cost of such service, as determined
12 under section 1861(v);”.

13 (D) APPLICATION OF PART B DEDUCT-
14 IBLE.—Section 1833(b)(2) (42 U.S.C.
15 1395l(b)(2)) is amended by striking “services”
16 and inserting “services (other than a covered
17 osteoporosis drug (as defined in section
18 1861(kk)))”.

19 (E) COVERED OSTEOPOROSIS DRUG (SEC-
20 TION 4156 OF OBRA–1990).—Section 1861 (42
21 U.S.C. 1395x) is amended, in the subsection
22 (jj) inserted by section 4156(a)(2) of OBRA–
23 1990, by striking “(jj) The term” and inserting
24 “(kk) The term”.

1 (7) OTHER MISCELLANEOUS AND TECHNICAL
2 CORRECTIONS.—

3 (A) OWNERSHIP DISCLOSURE REQUIRE-
4 MENTS.—(i) Section 1124A(a)(2)(A) (42
5 U.S.C. 1320a–3a(a)(2)(A)) is amended by
6 striking “of the Social Security Act”.

7 (ii) Section 4164(b)(4) of OBRA–1990 is
8 amended by striking “paragraph” and inserting
9 “paragraphs”.

10 (B) DIRECTORY OF UNIQUE PHYSICIAN
11 IDENTIFIER NUMBERS.—Section 4164(c) of
12 OBRA–1990 is amended by striking “publish”
13 and inserting “publish, and shall periodically
14 update,”.

15 (g) EFFECTIVE DATE.—Except as otherwise provided
16 in this section, the amendments made by this section shall
17 take effect as if included in the enactment of OBRA–1990.

18 **Subtitle C—Provisions Relating to**
19 **Parts A and B**

20 **SEC. 151. MEDICARE SECONDARY PAYER REFORMS.**

21 (a) IMPROVING IDENTIFICATION OF MEDICARE SEC-
22 ONDARY PAYER SITUATIONS.—

23 (1) SURVEY OF BENEFICIARIES.—

1 (A) IN GENERAL.—Section 1862(b)(5) (42
2 U.S.C. 1395y(b)(5)) is amended by adding at
3 the end the following new subparagraph:

4 “(D) OBTAINING INFORMATION FROM
5 BENEFICIARIES.—Before an individual applies
6 for benefits under part A or enrolls under part
7 B, the Administrator shall mail the individual a
8 questionnaire to obtain information on whether
9 the individual is covered under a primary plan
10 and the nature of the coverage provided under
11 the plan, including the name, address, and iden-
12 tifying number of the plan.”.

13 (B) DISTRIBUTION OF QUESTIONNAIRE BY
14 CONTRACTOR.—The Secretary of Health and
15 Human Services shall enter into an agreement
16 with an entity not later than 60 days after the
17 date of enactment of the Social Security Act
18 Amendments of 1994, to distribute the ques-
19 tionnaire described in section 1862(b)(5)(D) of
20 the Social Security Act (as added by subpara-
21 graph (A)).

22 (C) NO MEDICARE SECONDARY PAYER DE-
23 NIAL BASED ON FAILURE TO COMPLETE QUES-
24 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.

1 1395y(b)(2)) is amended by adding at the end
2 the following new subparagraph:

3 “(C) TREATMENT OF QUESTIONNAIRES.—
4 The Secretary may not fail to make payment
5 under subparagraph (A) solely on the ground
6 that an individual failed to complete a question-
7 naire concerning the existence of a primary
8 plan.”.

9 (2) MANDATORY SCREENING BY PROVIDERS
10 AND SUPPLIERS UNDER PART B.—

11 (A) IN GENERAL.—Section 1862(b) (42
12 U.S.C. 1395y(b)) is amended by adding at the
13 end the following new paragraph:

14 “(6) SCREENING REQUIREMENTS FOR PROVID-
15 ERS AND SUPPLIERS.—

16 “(A) IN GENERAL.—Notwithstanding any
17 other provision of this title, no payment may be
18 made for any item or service furnished under
19 part B unless the entity furnishing such item or
20 service completes (to the best of its knowledge
21 and on the basis of information obtained from
22 the individual to whom the item or service is
23 furnished) the portion of the claim form relat-
24 ing to the availability of other health benefit
25 plans.

1 “(B) PENALTIES.—An entity that know-
2 ingly, willfully, and repeatedly fails to complete
3 a claim form in accordance with subparagraph
4 (A) or provides inaccurate information relating
5 to the availability of other health benefit plans
6 on a claim form under such subparagraph shall
7 be subject to a civil money penalty of not to ex-
8 ceed \$2,000 for each such incident. The provi-
9 sions of section 1128A (other than subsections
10 (a) and (b)) shall apply to a civil money penalty
11 under the previous sentence in the same man-
12 ner as such provisions apply to a penalty or
13 proceeding under section 1128A(a).”.

14 (B) EFFECTIVE DATE.—The amendment
15 made by subparagraph (A) shall apply with re-
16 spect to items and services furnished on or
17 after the expiration of the 120-day period be-
18 ginning on the date of enactment of this Act.

19 (b) IMPROVEMENTS IN RECOVERY OF PAYMENTS
20 FROM PRIMARY PAYERS.—

21 (1) SUBMISSION OF REPORTS ON EFFORTS TO
22 RECOVER ERRONEOUS PAYMENTS.—

23 (A) FISCAL INTERMEDIARIES UNDER PART
24 A.—Section 1816 (42 U.S.C. 1396h) is amend-

1 ed by adding at the end the following new sub-
2 section:

3 “(k) An agreement with an agency or organization
4 under this section shall require that such agency or orga-
5 nization submit an annual report to the Secretary describ-
6 ing the steps taken to recover payments made for items
7 or services for which payment has been or could be made
8 under a primary plan (as defined in section
9 1862(b)(2)(A)).”.

10 (B) CARRIERS UNDER PART B.—Section
11 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amend-
12 ed—

13 (i) by striking “and” at the end of
14 subparagraph (G);

15 (ii) by striking “and” at the end of
16 subparagraph (H); and

17 (iii) by inserting after subparagraph
18 (H) the following new subparagraph:

19 “(I) will submit annual reports to the Secretary
20 describing the steps taken to recover payments made
21 under this part for items or services for which pay-
22 ment has been or could be made under a primary
23 plan (as defined in section 1862(b)(2)(A)); and”.

24 (2) REQUIREMENTS UNDER CARRIER PERFORM-
25 ANCE EVALUATION PROGRAM.—

1 (A) FISCAL INTERMEDIARIES UNDER PART
2 A.—Section 1816(f)(1)(A) (42 U.S.C.
3 1396h(f)(1)(A)) is amended by striking “proc-
4 essing” and inserting “processing (including the
5 agency’s or organization’s success in recovering
6 payments made under this title for services for
7 which payment has been or could be made
8 under a primary plan (as defined in section
9 1862(b)(2)(A))”.

10 (B) CARRIERS UNDER PART B.—Section
11 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended
12 by adding at the end the following new sub-
13 paragraph:

14 “(D) In addition to any other standards and criteria
15 established by the Secretary for evaluating carrier per-
16 formance under this paragraph relating to avoiding erro-
17 neous payments, the carrier shall be subject to standards
18 and criteria relating to the carrier’s success in recovering
19 payments made under this part for items or services for
20 which payment has been or could be made under a pri-
21 mary plan (as defined in section 1862(b)(2)(A)).”.

22 (3) DEADLINE FOR REIMBURSEMENT BY PRI-
23 MARY PLANS.—

24 (A) IN GENERAL.—Section
25 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))

1 is amended by adding at the end the following
2 sentence: “If reimbursement is not made to the
3 appropriate Trust Fund before the expiration of
4 the 60-day period that begins on the date such
5 notice or other information is received, the Sec-
6 retary may charge interest (beginning with the
7 date on which the notice or other information
8 is received) on the amount of the reimburse-
9 ment until reimbursement is made (at a rate
10 determined by the Secretary in accordance with
11 regulations of the Secretary of the Treasury
12 applicable to charges for late payments).”.

13 (B) CONFORMING AMENDMENT.—The
14 heading of clause (i) of section 1862(b)(2)(B) is
15 amended to read as follows: “REPAYMENT RE-
16 QUIRED.—”.

17 (C) EFFECTIVE DATE.—The amendments
18 made by this paragraph shall apply to payments
19 for items and services furnished on or after the
20 date of the enactment of this Act.

21 (4) EFFECTIVE DATE.—The amendments made
22 by paragraphs (1) and (2) shall apply to contracts
23 with fiscal intermediaries and carriers under title
24 XVIII of the Social Security Act for contract years
25 beginning with 1995.

1 (c) MISCELLANEOUS AND TECHNICAL CORREC-
2 TIONS.—

3 (1) Effective as if included in the enactment of
4 OBRA-1993, section 1862(b)(1)(A) (42 U.S.C.
5 1395y(b)(1)(A)), as amended by section 13561(e)(1)
6 of OBRA-1993, is amended—

7 (A) in clause (i)(II), by striking “over (and
8 the individual’s spouse age 65 or older) who is
9 covered under the plan by virtue of the individ-
10 ual’s current employment status with an em-
11 ployer” and inserting “older (and the spouse
12 age 65 or older of any individual) who has cur-
13 rent employment status with an employer”; and

14 (B) in clause (ii), by striking “or employee
15 organization that has 20 or more individuals in
16 current employment status” and inserting “that
17 has 20 or more employees”.

18 (2) Effective as if included in the enactment of
19 OBRA-1993, section 1837(i) (42 U.S.C. 1395p(i))
20 is amended—

21 (A) by striking “as an active individual (as
22 those terms are defined in section
23 1862(b)(1)(B)(iv))” each place it appears in the
24 second sentence of paragraph (1), and the sec-
25 ond sentence of paragraph (2) and inserting

1 “(as that term is defined in section
2 1862(b)(1)(B)(iv)) by reason of the individual’s
3 current employment status (or the current em-
4 ployment status of a family member of the indi-
5 vidual)”;

6 (B) in paragraph (3)(B), by striking “as
7 an active individual in a large group health plan
8 (as such terms are defined in section
9 1862(b)(1)(B)(iv))” and inserting “in a large
10 group health plan (as that term is defined in
11 section 1862(b)(1)(B)(iv)) by reason of the in-
12 dividual’s current employment status (or the
13 current employment status of a family member
14 of the individual)”;

15 (C) in the second sentence of paragraph
16 (2) (as amended by subparagraph (A)), by
17 striking “as an active individual” and inserting
18 “by reason of the individual’s current employ-
19 ment status (or the current employment status
20 of a family member of the individual)”;

21 (D) by inserting “status” after “current
22 employment” each place it appears in para-
23 graphs (1)(A), (2)(B), (2)(C), and (3)(A).

1 (3) Effective as if included in the enactment of
2 OBRA–1993, the second sentence of section 1839(b)
3 (42 U.S.C. 1395r(b)) is amended—

4 (A) by inserting “status” after “current
5 employment”, and

6 (B) by striking “as an active individual (as
7 those terms are defined in section
8 1862(b)(1)(B)(iv))” and inserting “(as that
9 term is defined in section 1862(b)(1)(B)(iv)) by
10 reason of the individual’s current employment
11 status (or the current employment status of a
12 family member of the individual)”.

13 (4) Effective as if included in the enactment of
14 OBRA–1990, the sentence in section 1862(b)(1)(C)
15 added by section 4203(c)(1)(B) of OBRA–1990 is
16 amended by striking “clauses (i) and (ii)” and in-
17 serting “this subparagraph”.

18 (5) Effective as if included in the enactment of
19 OBRA–1989, section 1862(b)(1)(C) is amended in
20 the matter after clause (ii), by striking “taking into
21 account that” and inserting “paying benefits second-
22 ary to this title when”.

23 (6) Effective as if included in the enactment of
24 OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C.
25 1395y(b)(5)(C)(i)) is amended by striking

1 “6103(l)(12)(D)(iii)” and inserting
2 “6103(l)(12)(E)(iii)”.

3 (7) Effective as if included in the enactment of
4 OBRA–1990, section 4203(c)(2) of such Act is
5 amended—

6 (A) by striking “the application of clause
7 (iii)” and inserting “the second sentence”;

8 (B) by striking “on individuals” and all
9 that follows through “section 226A of such
10 Act”;

11 (C) in clause (ii), by striking “clause” and
12 inserting “sentence”;

13 (D) in clause (v), by adding “and” at the
14 end; and

15 (E) in clause (vi)—

16 (i) by inserting “of such Act” after
17 “1862(b)(1)(C)”, and

18 (ii) by striking the period at the end
19 and inserting the following: “, without re-
20 gard to the number of employees covered
21 by such plans.”.

22 (8) Effective as if included in the enactment of
23 OBRA–1990, section 4203(d) of OBRA–1990 is
24 amended by striking “this subsection” and inserting
25 “this section”.

1 (9) Effective as if included in the enactment of
2 OBRA-1993, section 13561(e)(1)(D) of OBRA-
3 1993 is amended—

4 (A) by inserting “effective as if included in
5 the enactment of OBRA-1989,” after “(D)”,
6 and

7 (B) by striking “of each subparagraph”.

8 (10) The amendment made by section
9 13561(e)(1)(G) of OBRA-1993, to the extent it re-
10 lates to the definition of large group health plan,
11 shall be effective as if included in the enactment of
12 OBRA-1989.

13 **SEC. 152. PHYSICIAN OWNERSHIP AND REFERRAL.**

14 (a) IN GENERAL.—Section 1877(f) (42 U.S.C.
15 1395nn) is amended—

16 (1) in the matter before paragraph (1), by in-
17 serting “, investment, and compensation” after
18 “ownership”;

19 (2) in paragraph (2), by inserting “, or with a
20 compensation arrangement (as described in sub-
21 section (a)(2)(B)),” after “investment interest (as
22 described in subsection (a)(2)(A))”;

23 (3) in paragraph (2), by inserting “interest or
24 who have such a compensation relationship with the
25 entity” before the period at the end;

1 (4) in the fourth sentence, by striking “covered
2 items and” and inserting “designated health”; and

3 (5) by striking the third and fifth sentences.

4 (b) RADIOLOGY SERVICES.—Section 1877(h)(6) (42
5 U.S.C. 1395nn(h)(6)), as amended by section 13562(a)(2)
6 of OBRA–1993, is amended—

7 (1) in subparagraph (D), by striking “or other
8 diagnostic services” and inserting “services, includ-
9 ing magnetic resonance imaging, computerized axial
10 tomography scans, and ultrasound services”; and

11 (2) in subparagraphs (E), (F), and (H), by in-
12 serting “and supplies” before the period at the end.

13 (c) REVISION OF EFFECTIVE DATE EXCEPTION PRO-
14 VISION.—Section 13562(b)(2) of OBRA–1993 is amended
15 by striking subparagraphs (A) and (B) and inserting the
16 following:

17 “(A) the second sentence of subsection
18 (a)(2), and subsections (b)(2)(B) and (d)(2), of
19 section 1877 of the Social Security Act (as in
20 effect on the day before the date of the enact-
21 ment of this Act) shall apply instead of the cor-
22 responding provisions in section 1877 (as
23 amended by this Act);

1 “(B) section 1877(b)(4) of the Social Se-
2 curity Act (as in effect on the day before the
3 date of the enactment of this Act) shall apply;

4 “(C) the requirements of section
5 1877(c)(2) of the Social Security Act (as
6 amended by this Act) shall not apply to any se-
7 curities of a corporation that meets the require-
8 ments of section 1877(c)(2) of the Social Secu-
9 rity Act (as in effect on the day before the date
10 of the enactment of this Act);

11 “(D) section 1877(e)(3) of the Social Secu-
12 rity Act (as amended by this Act) shall apply,
13 except that it shall not apply to any arrange-
14 ment that meets the requirements of subsection
15 (e)(2) or subsection (e)(3) of section 1877 of
16 the Social Security Act (as in effect on the day
17 before the date of the enactment of this Act);

18 “(E) the requirements of clauses (iv) and
19 (v) of section 1877(h)(4)(A), and of clause (i)
20 of section 1877(h)(4)(B), of the Social Security
21 Act (as amended by this Act) shall not apply;
22 and

23 “(F) section 1877(h)(4)(B) of the Social
24 Security Act (as in effect on the day before the
25 date of the enactment of this Act) shall apply

1 instead of section 1877(h)(4)(A)(ii) of such Act
2 (as amended by this Act).”.

3 (d) EFFECTIVE DATES.—

4 (1) The amendments made by subsections (a)
5 and (b) shall apply to referrals made on or after
6 January 1, 1995.

7 (2) The amendment made by subsection (c)
8 shall apply as if included in the enactment of
9 OBRA-1993.

10 **SEC. 153. DEFINITION OF FMGEMS EXAMINATION FOR PAY-**
11 **MENT OF DIRECT GRADUATE MEDICAL EDU-**
12 **CATION.**

13 (a) IN GENERAL.—Section 1886(h)(5)(E) (42 U.S.C.
14 1395ww(h)(5)(E)) is amended by inserting “or any suc-
15 cessor examination” after “Medical Sciences”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply as if included in the enactment
18 of the Consolidated Omnibus Budget Reconciliation Act
19 of 1985 (Public Law 99-272).

20 **SEC. 154. QUALIFIED MEDICARE BENEFICIARY OUTREACH.**

21 Not later than 1 year after the date of the enactment
22 of this Act, the Secretary of Health and Human Services
23 shall establish and implement a method for obtaining in-
24 formation from newly eligible medicare beneficiaries that
25 may be used to determine whether such beneficiaries may

1 be eligible for medical assistance for medicare cost-sharing
2 under State medicaid plans as qualified medicare bene-
3 ficiaries, and for transmitting such information to the
4 State in which such a beneficiary resides.

5 **SEC. 155. HOSPITAL AGREEMENTS WITH ORGAN PROCURE-**
6 **MENT ORGANIZATIONS.**

7 (a) HOSPITAL AGREEMENTS.—

8 (1) IN GENERAL.—

9 (A) IDENTIFICATION OF ORGAN DO-
10 NORS.—Section 1138(a)(1)(A)(iii) (42 U.S.C.
11 1320b–8(a)(1)(A)(iii)) is amended to read as
12 follows:

13 “(iii) require that such hospital’s des-
14 ignated organ procurement agency (as defined
15 in paragraph (3)(B)) is notified of potential
16 organ donors;”.

17 (B) AGREEMENTS WITH DESIGNATED
18 ORGAN PROCUREMENT AGENCIES.—Section
19 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is
20 amended—

21 (i) by striking the period at the end of
22 subparagraph (B) and inserting “; and”;
23 and

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

1 “(C) the hospital or rural primary care hospital
2 has an agreement (as defined in paragraph (3)(A))
3 only with such hospital’s designated organ procure-
4 ment agency.”.

5 (C) WAIVER OF REQUIREMENTS RELATED
6 TO AGREEMENTS.—Section 1138(a) (42 U.S.C.
7 1320b–8(a)) is amended—

8 (i) by redesignating paragraph (2) as
9 paragraph (3); and

10 (ii) by inserting after paragraph (1)
11 the following new paragraph:

12 “(2)(A) The Secretary shall grant a waiver of the re-
13 quirements under subparagraphs (A)(iii) and (C) of para-
14 graph (1) to a hospital or rural primary care hospital de-
15 siring to enter into an agreement with an organ procure-
16 ment agency other than such hospital’s designated organ
17 procurement agency if the Secretary determines that—

18 “(i) the waiver is expected to increase organ do-
19 nation; and

20 “(ii) the waiver will assure equitable treatment
21 of patients referred for transplants within the serv-
22 ice area served by such hospital’s designated organ
23 procurement agency and within the service area
24 served by the organ procurement agency with which

1 the hospital seeks to enter into an agreement under
2 the waiver.

3 “(B) In making a determination under subparagraph
4 (A), the Secretary may consider factors that would in-
5 clude, but not be limited to—

6 “(i) cost effectiveness;

7 “(ii) improvements in quality;

8 “(iii) whether there has been any change in a
9 hospital’s designated organ procurement agency due
10 to a change made on or after December 28, 1992,
11 in the definitions for metropolitan statistical areas
12 (as established by the Office of Management and
13 Budget); and

14 “(iv) the length and continuity of a hospital’s
15 relationship with an organ procurement agency other
16 than the hospital’s designated organ procurement
17 agency;

18 except that nothing in this subparagraph shall be con-
19 strued to permit the Secretary to grant a waiver that does
20 not meet the requirements of subparagraph (A).

21 “(C) Any hospital or rural primary care hospital
22 seeking a waiver under subparagraph (A) shall submit an
23 application to the Secretary containing such information
24 as the Secretary determines appropriate.

25 “(D) The Secretary shall—

1 “(i) publish a public notice of any waiver appli-
2 cation received from a hospital or rural primary care
3 hospital under this paragraph within 30 days of re-
4 ceiving such application; and

5 “(ii) prior to making a final determination on
6 such application under subparagraph (A), offer in-
7 terested parties the opportunity to submit written
8 comments to the Secretary during the 60-day period
9 beginning on the date such notice is published.”.

10 (D) DEFINITIONS.—Section 1138(a)(3)
11 (42 U.S.C. 1320b–8(a)(3)), as redesignated by
12 subparagraph (C), is amended to read as fol-
13 lows:

14 “(3) For purposes of this subsection—

15 “(A) the term ‘agreement’ means an agreement
16 described in section 371(b)(3)(A) of the Public
17 Health Service Act;

18 “(B) the term ‘designated organ procurement
19 agency’ means, with respect to a hospital or rural
20 primary care hospital, the organ procurement agency
21 designated pursuant to subsection (b) for the service
22 area in which such hospital is located; and

23 “(C) the term ‘organ’ means a human kidney,
24 liver, heart, lung, pancreas, and any other human

1 organ or tissue specified by the Secretary for pur-
2 poses of this subsection.”.

3 (2) EXISTING AGREEMENTS.—Any hospital or
4 rural primary care hospital which has an agreement
5 (as defined in section 1138(a)(3)(A) of the Social
6 Security Act) with an organ procurement agency
7 other than such hospital’s designated organ procure-
8 ment agency (as defined in section 1138(a)(3)(B) of
9 such Act) on the date of the enactment of this sec-
10 tion shall, if such hospital desires to continue such
11 agreement on and after the effective date of the
12 amendments made by paragraph (1), submit an ap-
13 plication to the Secretary for a waiver under section
14 1138(a)(2) of such Act not later than January 1,
15 1996, and such agreement may continue in effect
16 pending the Secretary’s determination with respect
17 to such application.

18 (3) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall apply to hospitals and rural
20 primary care hospitals participating in the programs
21 under titles XVIII and XIX of the Social Security
22 Act beginning January 1, 1996.

23 (b) STUDY ON HOSPITAL AGREEMENTS WITH ORGAN
24 PROCUREMENT AGENCIES.—

1 (1) IN GENERAL.—The Office of Technology
2 Assessment (referred to in this section as the
3 “OTA”) shall, pursuant to the approval of the Tech-
4 nology Assessment Board of the OTA, conduct a
5 study to determine the efficacy and fairness of re-
6 quiring a hospital to enter into an agreement under
7 section 371(b)(3)(A) of the Public Health Service
8 Act with the organ procurement agency designated
9 pursuant to section 1138(b) of the Social Security
10 Act for the service area in which such hospital is lo-
11 cated and the impact of such requirement on the ef-
12 ficacy and fairness of organ procurement and dis-
13 tribution.

14 (2) REPORT.—Not later than 2 years after the
15 date of the enactment of this Act, the OTA shall
16 complete the study required under paragraph (1)
17 and prepare and submit to the Committee on Fi-
18 nance and the Committee on Labor and Human Re-
19 sources of the Senate and the Committee on Ways
20 and Means and the Committee on Energy and Com-
21 merce of the House of Representatives a report con-
22 taining the findings of such study and the implica-
23 tions of such findings with respect to policies affect-
24 ing organ procurement and distribution.

1 **SEC. 156. PEER REVIEW ORGANIZATIONS.**

2 (a) REPEAL OF PRO PRECERTIFICATION REQUIRE-
3 MENT FOR CERTAIN SURGICAL PROCEDURES.—

4 (1) IN GENERAL.—Section 1164 (42 U.S.C.
5 1320c–13) is repealed.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 1154 (42 U.S.C. 1320c–3) is
8 amended—

9 (i) in subsection (a), by striking para-
10 graph (12), and

11 (ii) in subsection (d), by striking
12 “(and except as provided in section
13 1164)”.

14 (B) Section 1833 (42 U.S.C. 1395l) is
15 amended—

16 (i) in subsection (a)(1)(D)(i), by strik-
17 ing “, or for tests furnished in connection
18 with obtaining a second opinion required
19 under section 1164(c)(2) (or a third opin-
20 ion, if the second opinion was in disagree-
21 ment with the first opinion)”;

22 (ii) in subsection (a)(1), by striking
23 subparagraph (G);

24 (iii) in subsection (a)(2)(A), by strik-
25 ing “, to items and services (other than
26 clinical diagnostic laboratory tests) fur-

1 nished in connection with obtaining a sec-
2 ond opinion required under section
3 1164(c)(2) (or a third opinion, if the sec-
4 ond opinion was in disagreement with the
5 first opinion),”;

6 (iv) in subsection (a)(2)(D)(i)—

7 (I) by striking “basis,” and in-
8 serting “basis or”, and

9 (II) by striking “, or for tests
10 furnished in connection with obtaining
11 a second opinion required under sec-
12 tion 1164(c)(2) (or a third opinion, if
13 the second opinion was in disagree-
14 ment with the first opinion)”;

15 (v) in subsection (a)(3), by striking
16 “and for items and services furnished in
17 connection with obtaining a second opinion
18 required under section 1164(c)(2), or a
19 third opinion, if the second opinion was in
20 disagreement with the first opinion”; and

21 (vi) in the first sentence of subsection
22 (b), by striking “(4)” and all that follows
23 through “and (5)” and inserting “and
24 (4)”.

1 (C) Section 1834(g)(1)(B) (42 U.S.C.
2 1395m(g)(1)(B)) is amended by striking “and
3 for items and services furnished in connection
4 with obtaining a second opinion required under
5 section 1164(c)(2), or a third opinion, if the
6 second opinion was in disagreement with the
7 first opinion”.

8 (D) Section 1862(a) (42 U.S.C. 1395y(a))
9 is amended—

10 (i) by adding “or” at the end of para-
11 graph (14),

12 (ii) by striking “; or” at the end of
13 paragraph (15) and inserting a period, and

14 (iii) by striking paragraph (16).

15 (E) The third sentence of section
16 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is
17 amended by striking “, with respect to items
18 and services furnished in connection with ob-
19 taining a second opinion required under section
20 1164(c)(2) (or a third opinion, if the second
21 opinion was in disagreement with the first opin-
22 ion),”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to services provided on
25 or after the date of the enactment of this Act.

1 (b) MISCELLANEOUS AND TECHNICAL CORREC-
2 TIONS.—(1) The third sentence of section 1156(b)(1) (42
3 U.S.C. 1320c-5(b)(1)) is amended by striking “whehter”
4 and inserting “whether”.

5 (2)(A) Section 1154(a)(9)(B) (42 U.S.C. 1320c-
6 3(a)(9)(B)) is amended to read as follows:

7 “(B) If the organization finds, after reasonable
8 notice to and opportunity for discussion with the
9 physician or practitioner concerned, that the physi-
10 cian or practitioner has furnished services in viola-
11 tion of section 1156(a) and the organization deter-
12 mines that the physician or practitioner should enter
13 into a corrective action plan under section
14 1156(b)(1), the organization shall notify the State
15 board or boards responsible for the licensing or dis-
16 ciplining of the physician or practitioner of its find-
17 ing and of any action taken as a result of the find-
18 ing.”.

19 (B) Subparagraph (D) of section 1160(b)(1) (42
20 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

21 “(D) to provide notice in accordance with
22 section 1154(a)(9)(B);”.

23 (3) Section 4205(d)(2)(B) of OBRA-1990 is amend-
24 ed by striking “amendments” and inserting “amend-
25 ment”.

1 (4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is
2 amended by striking “subpena” and inserting “subpoena”.

3 (5) Section 4205(e)(2) of OBRA-1990 is amended
4 by striking “amendments” and inserting “amendment”
5 and by striking “all”.

6 (6)(A) Except as provided in subparagraph (B), the
7 amendments made by this subsection shall take effect as
8 if included in the enactment of OBRA-1990.

9 (B) The amendments made by paragraph (2) (relat-
10 ing to the requirement on reporting of information to
11 State boards) shall take effect on the date of the enact-
12 ment of this Act.

13 **SEC. 157. HEALTH MAINTENANCE ORGANIZATIONS.**

14 (a) REVISIONS IN THE PAYMENT METHODOLOGY
15 FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-
16 1990 is amended to read as follows:

17 “(b) REVISIONS IN THE PAYMENT METHODOLOGY
18 FOR RISK CONTRACTORS.—(1)(A) Not later than October
19 1, 1995, the Secretary of Health and Human Services (in
20 this subsection referred to as the ‘Secretary’) shall submit
21 a proposal to the Congress that provides for revisions to
22 the payment method to be applied in years beginning with
23 1997 for organizations with a risk-sharing contract under
24 section 1876(g) of the Social Security Act.

1 “(B) In proposing the revisions required under sub-
2 paragraph (A), the Secretary shall consider—

3 “(i) the difference in costs associated with med-
4 icare beneficiaries with differing health status and
5 demographic characteristics; and

6 “(ii) the effects of using alternative geographic
7 classifications on the determinations of costs associ-
8 ated with beneficiaries residing in different areas.

9 “(2) Not later than 3 months after the date of sub-
10 mittal of the proposal under paragraph (1), the Comptrol-
11 ler General shall review the proposal and shall report to
12 Congress on the appropriateness of the proposed modifica-
13 tions.”.

14 (b) MISCELLANEOUS AND TECHNICAL CORREC-
15 TIONS.—(1) Section 1876(a)(3) (42 U.S.C.
16 1395mm(a)(3)) is amended by striking “subsection
17 (c)(7)” and inserting “subsections (c)(2)(B)(ii) and
18 (c)(7)”.

19 (2) Section 4204(c)(3) of OBRA–1990 is amended
20 by striking “for 1991” and inserting “for years beginning
21 with 1991”.

22 (3) Section 4204(d)(2) of OBRA–1990 is amended
23 by striking “amendment” and inserting “amendments”.

1 (4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C.
2 1395mm(a)(1)(E)(ii)(I)) is amended by striking the
3 comma after “contributed to”.

4 (5) Section 4204(e)(2) of OBRA–1990 is amended
5 by striking “(which has a risk-sharing contract under sec-
6 tion 1876 of the Social Security Act)”.

7 (6) Section 4204(f)(4) of OBRA–1990 is amended by
8 striking “final”.

9 (7) Section 1862(b)(3)(C) (42 U.S.C.
10 1395y(b)(3)(C)) is amended—

11 (A) in the heading, by striking “PLAN” and in-
12 sserting “PLAN OR A LARGE GROUP HEALTH PLAN”;

13 (B) by striking “group health plan” and insert-
14 ing “group health plan or a large group health
15 plan”;

16 (C) by striking “, unless such incentive is also
17 offered to all individuals who are eligible for cov-
18 erage under the plan”; and

19 (D) by striking “the first sentence of subsection
20 (a) and other than subsection (b)” and inserting
21 “subsections (a) and (b)”.

22 (8) The amendments made by this subsection shall
23 take effect as if included in the enactment of OBRA–1990.

1 **SEC. 158. HOME HEALTH AGENCIES.**

2 (a) USE OF MOST CURRENT DATA IN DETERMINING
3 WAGE INDEX.—

4 (1) IN GENERAL.—Section 1861(v)(1)(L)(iii)
5 (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by strik-
6 ing “as of such date to” and inserting “and deter-
7 mined using the survey of the most recent available
8 wages and wage-related costs of”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by paragraph (1) shall apply with respect to cost re-
11 porting periods beginning on or after July 1, 1996.

12 (b) CLARIFICATION OF EXTENSION OF WAIVER OF
13 LIABILITY.—

14 (1) IN GENERAL.—The second sentence of sec-
15 tion 9205 of the Consolidated Omnibus Budget Rec-
16 onciliation Act of 1985 is amended by striking “No-
17 vember 1, 1990” and inserting “December 31,
18 1995”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect as if included in
21 the enactment of OBRA-1990.

22 **SEC. 159. PERMANENT EXTENSION OF AUTHORITY TO CON-**
23 **TRACT WITH FISCAL INTERMEDIARIES AND**
24 **CARRIERS ON OTHER THAN A COST BASIS.**

25 (a) IN GENERAL.—Section 2326(a) of the Deficit Re-
26 duction Act of 1984, as amended by section 6215 of

1 OBRA–1989, is amended in the third sentence by striking
2 “during such period” and inserting “beginning with fiscal
3 year 1990 and any subsequent fiscal year”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply beginning with fiscal year 1994.

6 **SEC. 160. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

7 (a) SURVEY AND CERTIFICATION REQUIREMENTS.—

8 (1) Section 1864 (42 U.S.C. 1395aa) is amended—

9 (A) in subsection (e), by striking “title” and in-
10 sserting “title (other than any fee relating to section
11 353 of the Public Health Service Act)”; and

12 (B) in the first sentence of subsection (a), by
13 striking “1861(s) or” and all that follows through
14 “Service Act,” and inserting “1861(s),”.

15 (2) An agreement made by the Secretary of Health
16 and Human Services with a State under section 1864(a)
17 of the Social Security Act may include an agreement that
18 the services of the State health agency or other appro-
19 priate State agency (or the appropriate local agencies) will
20 be utilized by the Secretary for the purpose of determining
21 whether a laboratory meets the requirements of section
22 353 of the Public Health Service Act.

23 (b) HOME DIALYSIS DEMONSTRATION TECHNICAL
24 CORRECTIONS.—Section 4202 of OBRA–1990 is amend-
25 ed—

1 (1) in subsection (b)(1)(A), by striking “home
2 hemodialysis staff assistant” and inserting “quali-
3 fied home hemodialysis staff assistant (as described
4 in subsection (d))”;

5 (2) in subsection (b)(2)(B)(ii)(I), by striking
6 “(as adjusted to reflect differences in area wage
7 levels)”;

8 (3) in subsection (c)(1)(A), by striking
9 “skilled”; and

10 (4) in subsection (c)(1)(E), by striking “(b)(4)”
11 and inserting “(b)(2)”.

12 (c) TECHNICAL CORRECTION TO REVISIONS OF COV-
13 ERAGE FOR IMMUNOSUPPRESSIVE DRUG THERAPY.—The
14 Secretary of Health and Human Services may administer
15 section 1861(s)(2)(J) of the Social Security Act (42
16 U.S.C. 1395x(s)(2)(J)) in a manner such that the months
17 of coverage of drugs described in such section are provided
18 consecutively, so long as the total number of months of
19 coverage provided is the same as the number of months
20 described in such section.

21 (d) OTHER MISCELLANEOUS AND TECHNICAL PRO-
22 VISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended
23 by redesignating the subsection (r) added by section
24 4206(b)(2) of OBRA–1990 as subsection (s).

1 (2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is
2 amended by striking “1833(r)” and inserting “1833(s)”.

3 (3) Section 4201(d)(2) of OBRA–1990 is amended
4 by striking “(B) by striking”, “(C) by striking”, and “(3)
5 by adding” and inserting “(i) by striking”, “(ii) by strik-
6 ing”, and “(B) by adding”, respectively.

7 (4) The section following section 4206 of OBRA–
8 1990 is amended by striking “SEC. 4027.” and inserting
9 “SEC. 4207.”, and in this subtitle is referred to as section
10 4207 of OBRA–1990.

11 (5)(A) Section 4207(a)(1) of OBRA–1990 is amend-
12 ed by adding closing quotation marks and a period after
13 “such review.”.

14 (B) Section 4207(a)(4) of OBRA–1990 is amended
15 by striking “this subsection” and inserting “paragraphs
16 (2) and (3)”.

17 (C) Section 4207(b)(1) of OBRA–1990 is amended
18 by striking “section 3(7)” and inserting “section
19 601(a)(1)”.

20 (6) Section 2355(b)(1)(B) of the Deficit Reduction
21 Act of 1984, as amended by section 4207(b)(4)(B)(ii) of
22 OBRA–1990, is amended—

23 (A) by striking “12907(c)(4)(A)” and inserting
24 “4207(b)(4)(B)(i)”, and

1 (B) by striking “feasibilitly” and inserting “fea-
2 sibility”.

3 (7) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is
4 amended by striking the period at the end and inserting
5 a semicolon.

6 (8) Subsections (c)(3) and (e) of section 2355 of the
7 Deficit Reduction Act of 1984, as amended by section
8 4207(b)(4)(B) of OBRA-1990, are each amended by
9 striking “12907(c)(4)(A)” each place it appears and in-
10 serting “4207(b)(4)(B)”.

11 (9) Section 4207(c)(2) of OBRA-1990 is amended
12 by striking “the Committee on Ways and Means” each
13 place it appears and inserting “the Committees on Ways
14 and Means and Energy and Commerce”.

15 (10) Section 4207(d) of OBRA-1990 is amended by
16 redesignating the second paragraph (3) (relating to effec-
17 tive date) as paragraph (4).

18 (11) Section 4207(i)(2) of OBRA-1990 is amend-
19 ed—

20 (A) by striking the period at the end of clause
21 (iii) and inserting a semicolon, and

22 (B) in clause (v), by striking “residents” and
23 inserting “patients”.

1 (12) Section 4207(j) of OBRA–1990 is amended by
2 striking “title” each place it appears and inserting “sub-
3 title”.

4 **Subtitle D—Provisions Relating to**
5 **Medicare Supplemental Insur-**
6 **ance Policies**

7 **SEC. 171. STANDARDS FOR MEDICARE SUPPLEMENTAL IN-**
8 **SURANCE POLICIES.**

9 (a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL
10 POLICIES.—

11 (1) Section 4351 of OBRA–1990 is amended by
12 striking “(a) IN GENERAL.—”.

13 (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is
14 amended—

15 (A) in paragraph (1)(A)—

16 (i) by striking “promulgates” and in-
17 sserting “changes the revised NAIC Model
18 Regulation (described in subsection (m)) to
19 incorporate”,

20 (ii) by striking “(such limitations, lan-
21 guage, definitions, format, and standards
22 referred to collectively in this subsection as
23 ‘NAIC standards’),”, and

24 (iii) by striking “included a reference
25 to the NAIC standards” and inserting

1 “were a reference to the revised NAIC
2 Model Regulation as changed under this
3 subparagraph (such changed regulation re-
4 ferred to in this section as the ‘1991 NAIC
5 Model Regulation’)”;

6 (B) in paragraph (1)(B)—

7 (i) by striking “promulgate NAIC
8 standards” and inserting “make the
9 changes in the revised NAIC Model Regu-
10 lation”,

11 (ii) by striking “limitations, language,
12 definitions, format, and standards de-
13 scribed in clauses (i) through (iv) of such
14 subparagraph (in this subsection referred
15 to collectively as ‘Federal standards’)” and
16 inserting “a regulation”, and

17 (iii) by striking “included a reference
18 to the Federal standards” and inserting
19 “were a reference to the revised NAIC
20 Model Regulation as changed by the Sec-
21 retary under this subparagraph (such
22 changed regulation referred to in this sec-
23 tion as the ‘1991 Federal Regulation’)”;

24 (C) in paragraph (1)(C)(i), by striking
25 “NAIC standards or the Federal standards”

1 and inserting “1991 NAIC Model Regulation or
2 1991 Federal Regulation”;

3 (D) in paragraphs (1)(C)(ii)(I), (1)(E),
4 (2), and (9)(B), by striking “NAIC or Federal
5 standards” and inserting “1991 NAIC Model
6 Regulation or 1991 Federal Regulation”;

7 (E) in paragraph (2)(C), by striking
8 “(5)(B)” and inserting “(4)(B)”;

9 (F) in paragraph (4)(A)(i), by inserting
10 “or paragraph (6)” after “(B)”;

11 (G) in paragraph (4), by striking “applica-
12 ble standards” each place it appears and insert-
13 ing “applicable 1991 NAIC Model Regulation
14 or 1991 Federal Regulation”;

15 (H) in paragraph (6), by striking “in re-
16 gard to the limitation of benefits described in
17 paragraph (4)” and inserting “described in
18 clauses (i) through (iii) of paragraph (1)(A)”;

19 (I) in paragraph (7), by striking “policy-
20 holder” and inserting “policyholders”;

21 (J) in paragraph (8), by striking “after the
22 effective date of the NAIC or Federal standards
23 with respect to the policy, in violation of the
24 previous requirements of this subsection” and
25 inserting “on and after the effective date speci-

1 fied in paragraph (1)(C) (but subject to para-
2 graph (10)), in violation of the applicable 1991
3 NAIC Model Regulation or 1991 Federal Regu-
4 lation insofar as such regulation relates to the
5 requirements of subsection (o) or (q) or clause
6 (i), (ii), or (iii) of paragraph (1)(A)’’;

7 (K) in paragraph (9), by adding at the end
8 the following new subparagraph:

9 “(D) Subject to paragraph (10), this paragraph shall
10 apply to sales of policies occurring on or after the effective
11 date specified in paragraph (1)(C).’’; and

12 (L) in paragraph (10), by striking “this
13 subsection’’ and inserting “paragraph
14 (1)(A)(i)’’.

15 (b) GUARANTEED RENEWABILITY.—Section 1882(q)
16 (42 U.S.C. 1395ss(q)) is amended—

17 (1) in paragraph (2), by striking “paragraph
18 (2)’’ and inserting “paragraph (4)’’, and

19 (2) in paragraph (4), by striking “the succeed-
20 ing issuer’’ and inserting “issuer of the replacement
21 policy’’.

22 (c) ENFORCEMENT OF STANDARDS.—

23 (1) Section 1882(a)(2) (42 U.S.C.
24 1395ss(a)(2)) is amended—

1 (A) in subparagraph (A), by striking
2 “NAIC standards or the Federal standards”
3 and inserting “1991 NAIC Model Regulation or
4 1991 Federal Regulation”, and

5 (B) by striking “after the effective date of
6 the NAIC or Federal standards with respect to
7 the policy” and inserting “on and after the ef-
8 fective date specified in subsection (p)(1)(C)”.

9 (2) The sentence in section 1882(b)(1) added
10 by section 4353(c)(5) of OBRA-1990 is amended—

11 (A) by striking “The report” and inserting
12 “Each report”,

13 (B) by inserting “and requirements” after
14 “standards”,

15 (C) by striking “and” after “compliance,”,
16 and

17 (D) by striking the comma after “Commis-
18 sioners”.

19 (3) Section 1882(g)(2)(B) (42 U.S.C.
20 1395ss(g)(2)(B)) is amended by striking “Panel”
21 and inserting “Secretary”.

22 (4) Section 1882(b)(1) (42 U.S.C.
23 1395ss(b)(1)) is amended by striking “the the Sec-
24 retary” and inserting “the Secretary”.

25 (d) PREVENTING DUPLICATION.—

1 (1) Section 1882(d)(3)(A) (42 U.S.C.
2 1395ss(d)(3)(A)) is amended—

3 (A) by amending the first sentence to read
4 as follows:

5 “(i) It is unlawful for a person to sell or issue to an
6 individual entitled to benefits under part A or enrolled
7 under part B of this title—

8 “(I) a health insurance policy with knowledge
9 that the policy duplicates health benefits to which
10 the individual is otherwise entitled under this title or
11 title XIX,

12 “(II) a medicare supplemental policy with
13 knowledge that the individual is entitled to benefits
14 under another medicare supplemental policy, or

15 “(III) a health insurance policy (other than a
16 medicare supplemental policy) with knowledge that
17 the policy duplicates health benefits to which the in-
18 dividual is otherwise entitled, other than benefits to
19 which the individual is entitled under a requirement
20 of State or Federal law.”;

21 (B) by designating the second sentence as
22 clause (ii) and, in such clause, by striking “the
23 previous sentence” and inserting “clause (i)”;

24 (C) by designating the third sentence as
25 clause (iii) and, in such clause—

1 (i) by striking “the previous sentence”
2 and inserting “clause (i) with respect to
3 the sale of a medicare supplemental pol-
4 icy”, and

5 (ii) by striking “and the statement”
6 and all that follows up to the period at the
7 end; and

8 (D) by striking the last sentence.

9 (2) Section 1882(d)(3)(B) (42 U.S.C.
10 1395ss(d)(3)(B)) is amended—

11 (A) in clause (ii)(II), by striking “65 years
12 of age or older”,

13 (B) in clause (iii)(I), by striking “another
14 medicare” and inserting “a medicare”,

15 (C) in clause (iii)(I), by striking “such a
16 policy” and inserting “a medicare supplemental
17 policy”,

18 (D) in clause (iii)(II), by striking “another
19 policy” and inserting “a medicare supplemental
20 policy”, and

21 (E) by amending subclause (III) of clause
22 (iii) to read as follows:

23 “(III) If the statement required by clause (i) is ob-
24 tained and indicates that the individual is entitled to any
25 medical assistance under title XIX, the sale of the policy

1 is not in violation of clause (i) (insofar as such clause re-
2 lates to such medical assistance), if (aa) a State medicaid
3 plan under such title pays the premiums for the policy,
4 (bb) in the case of a qualified medicare beneficiary de-
5 scribed in section 1905(p)(1), the policy provides for cov-
6 erage of outpatient prescription drugs, or (cc) the only
7 medical assistance to which the individual is entitled under
8 the State plan is medicare cost sharing described in sec-
9 tion 1905(p)(3)(A)(ii).”.

10 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.
11 1395ss(d)(3)(C)) is amended—

12 (i) by striking “the selling” and inserting
13 “(i) the sale or issuance”, and

14 (ii) by inserting before the period at the
15 end the following: “, (ii) the sale or issuance of
16 a policy or plan described in subparagraph
17 (A)(i)(I) (other than a medicare supplemental
18 policy to an individual entitled to any medical
19 assistance under title XIX) under which all the
20 benefits are fully payable directly to or on be-
21 half of the individual without regard to other
22 health benefit coverage of the individual but
23 only if (for policies sold or issued more than 60
24 days after the date the statements are pub-
25 lished or promulgated under subparagraph (D))

1 there is disclosed in a prominent manner as
2 part of (or together with) the application the
3 applicable statement (specified under subpara-
4 graph (D)) of the extent to which benefits pay-
5 able under the policy or plan duplicate benefits
6 under this title, or (iii) the sale or issuance of
7 a policy or plan described in subparagraph
8 (A)(i)(III) under which all the benefits are fully
9 payable directly to or on behalf of the individual
10 without regard to other health benefit coverage
11 of the individual”.

12 (B) Section 1882(d)(3) (42 U.S.C.
13 1395ss(d)(3)) is amended by adding at the end the
14 following:

15 “(D)(i) If—

16 “(I) within the 90-day period beginning on the
17 date of the enactment of this subparagraph, the Na-
18 tional Association of Insurance Commissioners devel-
19 ops (after consultation with consumer and insurance
20 industry representatives) and submits to the Sec-
21 retary a statement for each of the types of health in-
22 surance policies (other than medicare supplemental
23 policies and including, but not limited to, as sepa-
24 rate types of policies, policies paying directly to the
25 beneficiary fixed, cash benefits, and policies that

1 limit benefit payments to specific diseases) which are
2 sold or issued to persons entitled to health benefits
3 under this title, of the extent to which benefits pay-
4 able under the policy or plan duplicate benefits
5 under this title, and

6 “(II) the Secretary approves all the statements
7 submitted as meeting the requirements of subclause
8 (I),

9 each such statement shall be (for purposes of subpara-
10 graph (C)) the statement specified under this subpara-
11 graph for the type of policy involved. The Secretary shall
12 review and approve (or disapprove) all the statements sub-
13 mitted under subclause (I) within 30 days after the date
14 of their submittal. Upon approval of such statements, the
15 Secretary shall publish such statements.

16 “(ii) If the Secretary does not approve the statements
17 under clause (i) or the statements are not submitted with-
18 in the 90-day period specified in such clause, the Secretary
19 shall promulgate (after consultation with consumer and
20 insurance industry representatives and not later than 90
21 days after the date of disapproval or the end of such 90-
22 day period (as the case may be)) a statement for each
23 of the types of health insurance policies (other than medi-
24 care supplemental policies and including, but not limited
25 to, as separate types of policies, policies paying directly

1 to the beneficiary fixed, cash benefits, and policies that
2 limit benefit payments to specific diseases) which are sold
3 or issued to persons entitled to health benefits under this
4 title, of the extent to which benefits payable under the pol-
5 icy or plan duplicate benefits under this title, and each
6 such statement shall be (for purposes of subparagraph
7 (C)) the statement specified under this subparagraph for
8 the type of policy involved.”.

9 (C) The requirement of a disclosure under sec-
10 tion 1882(d)(3)(C)(ii) of the Social Security Act
11 shall not apply to an application made for a policy
12 or plan before 60 days after the date the Secretary
13 of Health and Human Services publishes or promul-
14 gates all the statements under section
15 1882(d)(3)(D) of such Act.

16 (4) Subparagraphs (A) and (B) of section
17 1882(q)(5) are amended by striking “of the Social
18 Security Act”.

19 (e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

20 (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is
21 amended—

22 (A) in paragraph (1), by striking “or sold”
23 and inserting “or renewed (or otherwise provide
24 coverage after the date described in subsection
25 (p)(1)(C))”;

1 (B) in paragraph (1)(A), by inserting “for
2 periods after the effective date of these provi-
3 sions” after “the policy can be expected”;

4 (C) in paragraph (1)(A), by striking
5 “Commissioners,” and inserting “Commis-
6 sioners)”;

7 (D) in paragraph (1)(B), by inserting be-
8 fore the period at the end the following: “,
9 treating policies of the same type as a single
10 policy for each standard package”;

11 (E) by adding at the end of paragraph (1)
12 the following: “For the purpose of calculating
13 the refund or credit required under paragraph
14 (1)(B) for a policy issued before the date speci-
15 fied in subsection (p)(1)(C), the refund or cred-
16 it calculation shall be based on the aggregate
17 benefits provided and premiums collected under
18 all such policies issued by an insurer in a State
19 (separated as to individual and group policies)
20 and shall be based only on aggregate benefits
21 provided and premiums collected under such
22 policies after the date specified in section
23 171(m)(4) of the Social Security Act Amend-
24 ments of 1994.”;

1 (F) in the first sentence of paragraph
2 (2)(A), by striking “by policy number” and in-
3 serting “by standard package”;

4 (G) by striking the second sentence of
5 paragraph (2)(A) and inserting the following:
6 “Paragraph (1)(B) shall not apply to a policy
7 until 12 months following issue.”;

8 (H) in the last sentence of paragraph
9 (2)(A), by striking “in order” and all that fol-
10 lows through “are effective”;

11 (I) by adding at the end of paragraph
12 (2)(A), the following new sentence: “In the case
13 of a policy issued before the date specified in
14 subsection (p)(1)(C), paragraph (1)(B) shall
15 not apply until 1 year after the date specified
16 in section 171(m)(4) of the Social Security Act
17 Amendments of 1994.”;

18 (J) in paragraph (2), by striking “policy
19 year” each place it appears and inserting “cal-
20 endar year”;

21 (K) in paragraph (4), by striking “Feb-
22 ruary”, “disallowance”, “loss-ratios” each place
23 it appears, and “loss-ratio” and inserting “Oc-
24 tober”, “disallowance”, “loss ratios”, and “loss
25 ratio”, respectively;

1 (L) in paragraph (6)(A), by striking “is-
2 sues a policy in violation of the loss ratio re-
3 quirements of this subsection” and “such viola-
4 tion” and inserting “fails to provide refunds or
5 credits as required in paragraph (1)(B)” and
6 “policy issued for which such failure occurred”,
7 respectively; and

8 (M) in paragraph (6)(B), by striking “to
9 policyholders” and inserting “to the policy-
10 holder or, in the case of a group policy, to the
11 certificate holder”.

12 (2) Section 1882(b)(1) (42 U.S.C.
13 1395ss(b)(1)) is amended, in the matter after sub-
14 paragraph (H), by striking “subsection (F)” and in-
15 serting “subparagraph (F)”.

16 (3) Section 4355(d) of OBRA-1990 is amended
17 by striking “sold or issued” and all that follows and
18 inserting “issued or renewed (or otherwise providing
19 coverage after the date described in section
20 1882(p)(1)(C) of the Social Security Act) on or after
21 the date specified in section 1882(p)(1)(C) of the
22 Social Security Act.”.

23 (f) TREATMENT OF HMO’S.—

24 (1) Section 1882(g)(1) (42 U.S.C.
25 1395ss(g)(1)) is amended by striking “a health

1 maintenance organization or other direct service or-
2 ganization” and all that follows through “1833” and
3 inserting “an eligible organization (as defined in sec-
4 tion 1876(b)) if the policy or plan provides benefits
5 pursuant to a contract under section 1876 or an ap-
6 proved demonstration project described in section
7 603(c) of the Social Security Amendments of 1983,
8 section 2355 of the Deficit Reduction Act of 1984,
9 or section 9412(b) of the Omnibus Budget Reconcili-
10 ation Act of 1986, or, during the period beginning
11 on the date specified in subsection (p)(1)(C) and
12 ending on December 31, 1995, a policy or plan of
13 an organization if the policy or plan provides bene-
14 fits pursuant to an agreement under section
15 1833(a)(1)(A)”.

16 (2) Section 4356(b) of OBRA-1990 is amended
17 by striking “on the date of the enactment of this
18 Act” and inserting “on the date specified in section
19 1882(p)(1)(C) of the Social Security Act”.

20 (g) PRE-EXISTING CONDITION LIMITATIONS.—Sec-
21 tion 1882(s) (42 U.S.C. 1395ss(s)) is amended—

22 (1) in paragraph (2)(A), by striking “for which
23 an application is submitted” and inserting “in the
24 case of an individual for whom an application is sub-
25 mitted prior to or”,

1 (2) in paragraph (2)(A), by striking “in which
2 the individual (who is 65 years of age or older) first
3 is enrolled for benefits under part B” and inserting
4 “as of the first day on which the individual is 65
5 years of age or older and is enrolled for benefits
6 under part B”, and

7 (3) in paragraph (2)(B), by striking “before it”
8 and inserting “before the policy”.

9 (h) MEDICARE SELECT POLICIES.—

10 (1) Section 1882(t) (42 U.S.C. 1395ss(t)) is
11 amended—

12 (A) in paragraph (1), by inserting “medi-
13 care supplemental” after “If a”,

14 (B) in paragraph (1), by striking “NAIC
15 Model Standards” and inserting “1991 NAIC
16 Model Regulation or 1991 Federal Regulation”,

17 (C) in paragraph (1)(A), by inserting “or
18 agreements” after “contracts”,

19 (D) in subparagraphs (E)(i) and (F) of
20 paragraph (1), by striking “NAIC standards”
21 and inserting “standards in the 1991 NAIC
22 Model Regulation or 1991 Federal Regulation”,
23 and

1 (E) in paragraph (2), by inserting “the is-
2 suer” before “is subject to a civil money pen-
3 alty”.

4 (2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-
5 3(a)(4)(B)) is amended—

6 (A) by inserting “that is” after “(or”, and

7 (B) by striking “1882(t)” and inserting
8 “1882(t)(3)”.

9 (i) HEALTH INSURANCE COUNSELING.—Section
10 4360 of OBRA-1990 is amended—

11 (1) in subsection (b)(2)(A)(ii), by striking
12 “Act” and inserting “Act”);

13 (2) in subsection (b)(2)(D), by striking “serv-
14 ices” and inserting “counseling”;

15 (3) in subsection (b)(2)(I), by striking “assist-
16 ance” and inserting “referrals”;

17 (4) in subsection (c)(1), by striking “and that
18 such activities will continue to be maintained at such
19 level”;

20 (5) in subsection (d)(3), by striking “to the
21 rural areas” and inserting “eligible individuals resid-
22 ing in rural areas”;

23 (6) in subsection (e)—

24 (A) by striking “subsection (c) or (d)” and
25 inserting “this section”,

1 (B) by striking “and annually thereafter,
2 issue an annual report” and inserting “and an-
3 nually thereafter during the period of the grant,
4 issue a report”, and

5 (C) in paragraph (1), by striking “State-
6 wide”;

7 (7) in subsection (f), by striking paragraph (2)
8 and by redesignating paragraphs (3) through (5) as
9 paragraphs (2) through (4), respectively; and

10 (8) in the second subsection (f) (relating to au-
11 thorization of appropriations for grants)—

12 (A) by striking “and 1993” and inserting
13 “1993, 1994, 1995, and 1996”; and

14 (B) by redesignating such subsection as
15 subsection (g).

16 (j) TELEPHONE INFORMATION SYSTEM.—

17 (1) Section 1804 (42 U.S.C. 1395b-2) is
18 amended—

19 (A) by adding at the end of the heading
20 the following: “; MEDICARE AND MEDIGAP IN-
21 FORMATION”,

22 (B) by inserting “(a)” after “1804.”, and

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

1 “(b) The Secretary shall provide information via a
2 toll-free telephone number on the programs under this
3 title.”.

4 (2) Section 1882(f) (42 U.S.C. 1395ss(f)) is
5 amended by adding at the end the following new
6 paragraph:

7 “(3) The Secretary shall provide information via a
8 toll-free telephone number on medicare supplemental poli-
9 cies (including the relationship of State programs under
10 title XIX to such policies).”.

11 (3) Section 1889 is repealed.

12 (k) MAILING OF POLICIES.—Section 1882(d)(4) (42
13 U.S.C. 1395ss(d)(4)) is amended—

14 (1) in subparagraph (D), by striking “, if such
15 policy” and all that follows up to the period at the
16 end, and

17 (2) by adding at the end the following new sub-
18 paragraph:

19 “(E) Subparagraph (A) shall not apply in the case
20 of an issuer who mails or causes to be mailed a policy,
21 certificate, or other matter solely to comply with the re-
22 quirements of subsection (q).”.

23 (l) EFFECTIVE DATE.—The amendments made by
24 this section shall be effective as if included in the enact-
25 ment of OBRA-1990; except that—

1 (1) the amendments made by subsection (d)(1)
2 shall take effect on the date of the enactment of this
3 Act, but no penalty shall be imposed under section
4 1882(d)(3)(A) of the Social Security Act (for an ac-
5 tion occurring after the effective date of the amend-
6 ments made by section 4354 of OBRA-1990 and be-
7 fore the date of the enactment of this Act) with re-
8 spect to the sale or issuance of a policy which is not
9 unlawful under section 1882(d)(3)(A)(i)(II) of the
10 Social Security Act (as amended by this section);

11 (2) the amendments made by subsection
12 (d)(2)(A) and by subparagraphs (A), (B), and (E)
13 of subsection (e)(1) shall be effective on the date
14 specified in subsection (m)(4); and

15 (3) the amendment made by subsection (g)(2)
16 shall take effect on January 1, 1995, and shall apply
17 to individuals who attain 65 years of age or older on
18 or after the effective date of section 1882(s)(2) of
19 the Social Security Act (and, in the case of individ-
20 uals who attained 65 years of age after such effec-
21 tive date and before January 1, 1995, and who were
22 not covered under such section before January 1,
23 1995, the 6-month period specified in that section
24 shall begin January 1, 1995).

25 (m) TRANSITION PROVISIONS.—

1 (1) IN GENERAL.—If the Secretary of Health
2 and Human Services identifies a State as requiring
3 a change to its statutes or regulations to conform its
4 regulatory program to the changes made by this sec-
5 tion, the State regulatory program shall not be con-
6 sidered to be out of compliance with the require-
7 ments of section 1882 of the Social Security Act due
8 solely to failure to make such change until the date
9 specified in paragraph (4).

10 (2) NAIC STANDARDS.—If, within 6 months
11 after the date of the enactment of this Act, the Na-
12 tional Association of Insurance Commissioners (in
13 this subsection referred to as the “NAIC”) modifies
14 its 1991 NAIC Model Regulation (adopted in July
15 1991) to conform to the amendments made by this
16 section and to delete from section 15C the exception
17 which begins with “unless”, such revised regulation
18 incorporating the modifications shall be considered
19 to be the 1991 Regulation for the purposes of sec-
20 tion 1882 of the Social Security Act.

21 (3) SECRETARY STANDARDS.—If the NAIC
22 does not make the modifications described in para-
23 graph (2) within the period specified in such para-
24 graph, the Secretary of Health and Human Services
25 shall make the modifications described in such para-

1 graph and such revised regulation incorporating the
2 modifications shall be considered to be the 1991
3 Regulation for the purposes of section 1882 of the
4 Social Security Act.

5 (4) DATE SPECIFIED.—

6 (A) IN GENERAL.—Subject to subpara-
7 graph (B), the date specified in this paragraph
8 for a State is the earlier of—

9 (i) the date the State changes its stat-
10 utes or regulations to conform its regu-
11 latory program to the changes made by
12 this section, or

13 (ii) 1 year after the date the NAIC or
14 the Secretary first makes the modifications
15 under paragraph (2) or (3), respectively.

16 (B) ADDITIONAL LEGISLATIVE ACTION RE-
17 QUIRED.—In the case of a State which the Sec-
18 retary identifies as—

19 (i) requiring State legislation (other
20 than legislation appropriating funds) to
21 conform its regulatory program to the
22 changes made in this section, but

23 (ii) having a legislature which is not
24 scheduled to meet in 1996 in a legislative

1 session in which such legislation may be
2 considered,
3 the date specified in this paragraph is the first
4 day of the first calendar quarter beginning after
5 the close of the first legislative session of the
6 State legislature that begins on or after Janu-
7 ary 1, 1996. For purposes of the previous sen-
8 tence, in the case of a State that has a 2-year
9 legislative session, each year of such session
10 shall be deemed to be a separate regular session
11 of the State legislature.

12 **SEC. 172. 6-MONTH EXTENSION OF PERIOD FOR ISSUANCE**
13 **OF MEDICARE SELECT POLICIES.**

14 (a) **IN GENERAL.**—Section 4358(c) of the Omnibus
15 Budget Reconciliation Act of 1990 (42 U.S.C. 1320c-3
16 note) is amended by striking “3-year” and inserting “3½-
17 year”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
19 subsection (a) shall take effect as if included in the enact-
20 ment of the Omnibus Budget Reconciliation Act of 1990.

1 **TITLE II—MATERNAL AND**
2 **CHILD HEALTH SERVICES**
3 **BLOCK GRANT PROGRAM**
4 **Subtitle A—Child Welfare, Foster**
5 **Care, Adoption**

6 **SEC. 201. INCREASE IN AUTHORIZATION OF APPROPRIA-**
7 **TIONS FOR THE MATERNAL AND CHILD**
8 **HEALTH SERVICES BLOCK GRANT PROGRAM.**

9 Section 501(a) (42 U.S.C. 701(a)) is amended by
10 striking “\$686,000,000 for fiscal year 1990” and insert-
11 ing “\$705,000,000 for fiscal year 1994”.

12 **SEC. 202 REQUIRED PROTECTIONS FOR FOSTER CHIL-**
13 **DREN.**

14 (a) IN GENERAL.—Section 422(b) (42 U.S.C.
15 622(b)) is amended—

16 (1) by striking “and” at the end of paragraph
17 (7);

18 (2) by striking the period at the end of para-
19 graph (8) and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(9) provide assurances that the State—

22 “(A) since June 17, 1980, has completed
23 an inventory of all children who, before the in-
24 ventory, had been in foster care under the re-

1 sponsibility of the State for 6 months or more,
2 which determined—

3 “(i) the appropriateness of, and neces-
4 sity for, the foster care placement;

5 “(ii) whether the child could or should
6 be returned to the parents of the child or
7 should be freed for adoption or other per-
8 manent placement; and

9 “(iii) the services necessary to facili-
10 tate the return of the child or the place-
11 ment of the child for adoption or legal
12 guardianship;

13 “(B) is operating, to the satisfaction of the
14 Secretary—

15 “(i) a statewide information system
16 from which can be readily determined the
17 status, demographic characteristics, loca-
18 tion, and goals for the placement of every
19 child who is (or, within the immediately
20 preceding 12 months, has been) in foster
21 care;

22 “(ii) a case review system (as defined
23 in section 475(5)) for each child receiving
24 foster care under the supervision of the
25 State;

1 “(iii) a service program designed to
2 help children—

3 “(I) where appropriate, return to
4 families from which they have been
5 removed; or

6 “(II) be placed for adoption, with
7 a legal guardian, or, if adoption or
8 legal guardianship is determined not
9 to be appropriate for a child, in some
10 other planned, permanent living ar-
11 rangement; and

12 “(iv) a preplacement preventive serv-
13 ices program designed to help children at
14 risk of foster care placement remain with
15 their families; and

16 “(C)(i) has reviewed (or within 12 months
17 after the date of the enactment of this para-
18 graph will review) State policies and adminis-
19 trative and judicial procedures in effect for chil-
20 dren abandoned at or shortly after birth (in-
21 cluding policies and procedures providing for
22 legal representation of such children); and

23 “(ii) is implementing (or within 24 months
24 after the date of the enactment of this para-
25 graph will implement) such policies and proce-

1 dures as the State determines, on the basis of
2 the review described in clause (i), to be nec-
3 essary to enable permanent decisions to be
4 made expeditiously with respect to the place-
5 ment of such children.”.

6 (b) RESTRICTION ON REALLOTMENT.—Section 424
7 (42 U.S.C. 624) is amended—

8 (1) in the first sentence, by striking “The
9 amount” and inserting the following:

10 “(a) IN GENERAL.—Subject to subsection (b), the
11 amount”; and

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

13 “(b) EXCEPTION RELATING TO FOSTER CHILD PRO-
14 TECTIONS.—The Secretary shall not reallocate under sub-
15 section (a) of this section any amount that is withheld or
16 recovered from a State due to the failure of the State to
17 meet the requirements of section 422(b)(9).”.

18 (c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby
19 repealed.

20 (d) CONFORMING AMENDMENTS.—

21 (1) Section 423(a) (42 U.S.C. 623(a)) is
22 amended by striking “and in section 427”.

23 (2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is
24 amended by striking “the statistical report required
25 by section” and inserting “section 422(b)(9) or”.

1 (3) Section 472(d) (42 U.S.C. 672(d)) is
2 amended by striking “427(b)” and inserting
3 “422(b)(9)”.

4 (e) EFFECTIVE DATE.—The amendments and repeal
5 made by this section shall be effective with respect to fiscal
6 years beginning on or after April 1, 1995.

7 **SEC. 203. CONFORMITY REVIEWS.**

8 (a) IN GENERAL.—Part A of title XI (42 U.S.C.
9 1301–1320b–13) is amended by inserting after section
10 1122 the following:

11 “REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS,
12 AND OF FOSTER CARE AND ADOPTION ASSISTANCE
13 PROGRAMS, FOR CONFORMITY WITH STATE PLAN RE-
14 QUIREMENTS

15 “SEC. 1123. (a) IN GENERAL.—The Secretary, in
16 consultation with the State agencies administering the
17 State programs under parts B and E of title IV, shall pro-
18 mulgate regulations for the review of such programs to
19 determine whether such programs are in substantial con-
20 formity with—

21 “(1) State plan requirements under such parts
22 B and E,

23 “(2) implementing regulations promulgated by
24 the Secretary, and

25 “(3) the relevant approved State plans.

1 “(b) ELEMENTS OF REVIEW SYSTEM.—The regula-
2 tions referred to in subsection (a) shall—

3 “(1) specify the timetable for conformity re-
4 views of State programs, including—

5 “(A) an initial review of each State pro-
6 gram;

7 “(B) a timely review of a State program
8 following a review in which such program was
9 found not to be in substantial conformity; and

10 “(C) less frequent reviews of State pro-
11 grams which have been found to be in substan-
12 tial conformity, but such regulations shall per-
13 mit the Secretary to reinstate more frequent re-
14 views based on information which indicates that
15 a State program may not be in conformity;

16 “(2) specify the requirements subject to review,
17 and the criteria to be used to measure conformity
18 with such requirements and to determine whether
19 there is a substantial failure to so conform;

20 “(3) specify the method to be used to determine
21 the amount of any Federal matching funds to be
22 withheld (subject to paragraph (4)) due to the State
23 program’s failure to so conform, which ensures
24 that—

1 “(A) such funds will not be withheld with
2 respect to a program, unless it is determined
3 that the program fails substantially to so con-
4 form;

5 “(B) such funds will not be withheld for a
6 failure to so conform resulting from the State’s
7 reliance upon and correct use of formal written
8 statements of Federal law or policy provided to
9 the State by the Secretary; and

10 “(C) the amount of such funds withheld is
11 related to the extent of the failure to so con-
12 form; and

13 “(4) require the Secretary, with respect to any
14 State program found to have failed substantially to
15 so conform—

16 “(A) to afford the State an opportunity to
17 adopt and implement a corrective action plan,
18 approved by the Secretary, designed to end the
19 failure to so conform;

20 “(B) to make technical assistance available
21 to the State to the extent feasible to enable the
22 State to develop and implement such a correc-
23 tive action plan;

1 “(C) to suspend the withholding of any
2 Federal matching funds under this section while
3 such a corrective action plan is in effect; and

4 “(D) to rescind any such withholding if the
5 failure to so conform is ended by successful
6 completion of such a corrective action plan.

7 “(c) PROVISIONS FOR ADMINISTRATIVE AND JUDI-
8 CIAL REVIEW.—The regulations referred to in subsection
9 (a) shall—

10 “(1) require the Secretary, not later than 10
11 days after a final determination that a program of
12 the State is not in conformity, to notify the State
13 of—

14 “(A) the basis for the determination; and

15 “(B) the amount of the Federal matching
16 funds (if any) to be withheld from the State;

17 “(2) afford the State an opportunity to appeal
18 the determination to the Departmental Appeals
19 Board within 60 days after receipt of the notice de-
20 scribed in paragraph (1) (or, if later, after failure to
21 continue or to complete a corrective action plan);
22 and

23 “(3) afford the State an opportunity to obtain
24 judicial review of an adverse decision of the Board,
25 within 60 days after the State receives notice of the

1 decision of the Board, by appeal to the district court
2 of the United States for the judicial district in which
3 the principal or headquarters office of the agency re-
4 sponsible for administering the program is located.”.

5 (b) CONFORMING AMENDMENT.—Section 471(b) (42
6 U.S.C. 671(b)) is amended by striking all that follows the
7 first sentence.

8 (c) EFFECTIVE DATES.—

9 (1) IN GENERAL.—The amendment made by
10 subsection (a) shall take effect on the date of the en-
11 actment of this Act.

12 (2) CONFORMING AMENDMENT.—The amend-
13 ment made by subsection (b) shall take effect on Oc-
14 tober 1, 1995.

15 (3) REGULATIONS.—The Secretary shall pro-
16 mulgate the regulations referred to in section
17 1123(a) of the Social Security Act (as added by this
18 section) not later than July 1, 1995, to take effect
19 on April 1, 1996.

20 **SEC. 204. STATES REQUIRED TO REPORT ON MEASURES**
21 **TAKEN TO COMPLY WITH THE INDIAN CHILD**
22 **WELFARE ACT.**

23 (a) STATE PLAN REQUIREMENT.—Section 422(b)
24 (42 U.S.C. 622(b)), as amended by section 301(a), is
25 amended—

1 (1) by striking “and” at the end of paragraph
2 (8);

3 (2) by striking the period at the end of para-
4 graph (9) and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(10) contain a description, developed after
7 consultation with tribal organizations (as defined in
8 section 4 of the Indian Self-Determination and Edu-
9 cation Assistance Act) in the State, of the specific
10 measures taken by the State to comply with the In-
11 dian Child Welfare Act.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 subsection (a) shall be effective with respect to fiscal years
14 beginning on or after October 1, 1995.

15 **SEC. 205. CHILD WELFARE TRAINEESHIPS.**

16 (a) IN GENERAL.—Subpart 1 of part B of title IV
17 (42 U.S.C. 620–628) is amended by inserting after section
18 428 the following:

19 “CHILD WELFARE TRAINEESHIPS

20 “SEC. 429. The Secretary may approve an applica-
21 tion for a grant to a public or nonprofit institution for
22 higher learning to provide traineeships with stipends
23 under section 426(a)(1)(C) only if the application—

24 “(1) provides assurances that each individual
25 who receives a stipend with such traineeship (in this
26 section referred to as a ‘recipient’) will enter into an

1 agreement with the institution under which the re-
2 cipient agrees—

3 “(A) to participate in training at a public
4 or private nonprofit child welfare agency on a
5 regular basis (as determined by the Secretary)
6 for the period of the traineeship;

7 “(B) to be employed for a period of years
8 equivalent to the period of the traineeship, in a
9 public or private nonprofit child welfare agency
10 in any State, within a period of time (deter-
11 mined by the Secretary in accordance with reg-
12 ulations) after completing the postsecondary
13 education for which the traineeship was
14 awarded;

15 “(C) to furnish to the institution and the
16 Secretary evidence of compliance with subpara-
17 graphs (A) and (B); and

18 “(D) if the recipient fails to comply with
19 subparagraph (A) or (B) and does not qualify
20 for any exception to this subparagraph which
21 the Secretary may prescribe in regulations, to
22 repay to the Secretary all (or an appropriately
23 prorated part) of the amount of the stipend,
24 plus interest, and, if applicable, reasonable col-

1 lection fees (in accordance with regulations pro-
2 mulgated by the Secretary);

3 “(2) provides assurances that the institution
4 will—

5 “(A) enter into agreements with child wel-
6 fare agencies for onsite training of recipients;

7 “(B) permit an individual who is employed
8 in the field of child welfare services to apply for
9 a traineeship with a stipend if the traineeship
10 furtheres the progress of the individual toward
11 the completion of degree requirements; and

12 “(C) develop and implement a system that,
13 for the 3-year period that begins on the date
14 any recipient completes a child welfare services
15 program of study, tracks the employment
16 record of the recipient, for the purpose of deter-
17 mining the percentage of recipients who secure
18 employment in the field of child welfare services
19 and remain employed in the field.”.

20 (b) CONFORMING AMENDMENT.—Section
21 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by in-
22 serting “described in section 429” after “including
23 traineeships”.

1 (c) APPLICABILITY.—The amendments made by this
2 section shall apply to grants awarded on or after October
3 1, 1995

4 **SEC. 206. DISPOSITIONAL HEARING.**

5 (a) MOST APPROPRIATE SETTING.—Section
6 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by inserting
7 “and most appropriate” after “(most family like)”.

8 (b) TIMING OF SUBSEQUENT REVIEW.—Section
9 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking
10 “periodically” and inserting “not less frequently than
11 every 12 months”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on October 1, 1995.

14 **SEC. 207. ELIMINATION OF FOSTER CARE CEILINGS AND**
15 **OF AUTHORITY TO TRANSFER UNUSED FOS-**
16 **TER CARE FUNDS TO CHILD WELFARE SERV-**
17 **ICES PROGRAMS.**

18 (a) REPEAL.—Subsections (b) and (c) of section 474
19 (42 U.S.C. 674 (b) and (c)) are hereby repealed.

20 (b) CONFORMING AMENDMENTS.—Section 474 (42
21 U.S.C. 674) is amended—

22 (1) in subsection (d)(1)—

23 (A) by striking “subsections (a), (b), and
24 (c)” and inserting “subsection (a)”; and

1 (B) by striking “the provisions of such
2 subsections” and inserting “subsection (a)”;
3 and

4 (2) by redesignating subsection (d) as sub-
5 section (b).

6 (c) EFFECTIVE DATE.—The amendments and re-
7 peals made by this section shall apply to payments for cal-
8 endar quarters beginning on or after October 1, 1993.

9 **SEC. 208. DEMONSTRATION PROJECTS.**

10 Part A of title XI (42 U.S.C. 1301–1320b–13) is
11 amended by inserting after section 1128B the following:

12 “DEMONSTRATION PROJECTS

13 “SEC. 1129. (a) IN GENERAL.—The Secretary may
14 authorize not more than 10 States to conduct demonstra-
15 tion projects pursuant to this section which the Secretary
16 finds are likely to promote the objectives of part B or E
17 of title IV.

18 “(b) WAIVER AUTHORITY.—The Secretary may
19 waive compliance with any requirement of part B or E
20 of title IV which (if applied) would prevent a State from
21 carrying out a demonstration project under this section
22 or prevent the State from effectively achieving the purpose
23 of such a project, except that the Secretary may not
24 waive—

1 “(1) any provision of section 427 (as in effect
2 before April 1, 1996), section 422(b)(9) (as in effect
3 after such date), or section 479; or

4 “(2) any provision of such part E, to the extent
5 that the waiver would impair the entitlement of any
6 qualified child or family to benefits under a State
7 plan approved under such part E.

8 “(c) TREATMENT AS PROGRAM EXPENDITURES.—
9 For purposes of parts B and E of title IV, the Secretary
10 shall consider the expenditures of any State to conduct
11 a demonstration project under this section to be expendi-
12 tures under subpart 1 or 2 of such part B, or under such
13 part E, as the State may elect.

14 “(d) DURATION OF DEMONSTRATION.—A dem-
15 onstration project under this section may be conducted for
16 not more than 5 years.

17 “(e) APPLICATION.—Any State seeking to conduct a
18 demonstration project under this section shall submit to
19 the Secretary an application, in such form as the Sec-
20 retary may require, which includes—

21 “(1) a description of the proposed project, the
22 geographic area in which the proposed project would
23 be conducted, the children or families who would be
24 served by the proposed project, and the services
25 which would be provided by the proposed project

1 (which shall provide, where appropriate, for random
2 assignment of children and families to groups served
3 under the project and to control groups);

4 “(2) a statement of the period during which the
5 proposed project would be conducted;

6 “(3) a discussion of the benefits that are ex-
7 pected from the proposed project (compared to a
8 continuation of activities under the approved plan or
9 plans of the State);

10 “(4) an estimate of the costs or savings of the
11 proposed project;

12 “(5) a statement of program requirements for
13 which waivers would be needed to permit the pro-
14 posed project to be conducted;

15 “(6) a description of the proposed evaluation
16 design; and

17 “(7) such additional information as the Sec-
18 retary may require.

19 “(f) EVALUATIONS; REPORT.—Each State authorized
20 to conduct a demonstration project under this section
21 shall—

22 “(1) obtain an evaluation by an independent
23 contractor of the effectiveness of the project, using
24 an evaluation design approved by the Secretary
25 which provides for—

1 “(A) comparison of methods of service de-
2 livery under the project, and such methods
3 under a State plan or plans, with respect to ef-
4 ficiency, economy, and any other appropriate
5 measures of program management;

6 “(B) comparison of outcomes for children
7 and families (and groups of children and fami-
8 lies) under the project, and such outcomes
9 under a State plan or plans, for purposes of as-
10 sessing the effectiveness of the project in
11 achieving program goals; and

12 “(C) any other information that the Sec-
13 retary may require; and

14 “(2) provide interim and final evaluation re-
15 ports to the Secretary, at such times and in such
16 manner as the Secretary may require.

17 “(g) COST NEUTRALITY.—The Secretary may not
18 authorize a State to conduct a demonstration project
19 under this section unless the Secretary determines that
20 the total amount of Federal funds that will be expended
21 under (or by reason of) the project over its approved term
22 (or such portion thereof or other period as the Secretary
23 may find appropriate) will not exceed the amount of such
24 funds that would be expended by the State under the State

1 plans approved under parts B and E of title IV if the
2 project were not conducted.”.

3 **SEC. 209. PLACEMENT ACCOUNTABILITY.**

4 (a) CASE PLAN REQUIREMENTS.—Section 475(5)(A)
5 (42 U.S.C. 675(5)(A)), as amended by section 305(a), is
6 amended by adding at the end the following: “which—

7 “(i) if the child has been placed in a
8 foster family home or child-care institution
9 a substantial distance from the home of
10 the parents of the child, or in a State dif-
11 ferent from the State in which such home
12 is located, sets forth the reasons why such
13 placement is in the best interests of the
14 child, and

15 “(ii) if the child has been placed in
16 foster care outside the State in which the
17 home of the parents of the child is located,
18 requires that, periodically, but not less fre-
19 quently than every 12 months, a case-
20 worker on the staff of the State agency of
21 the State in which the home of the parents
22 of the child is located, or of the State in
23 which the child has been placed, visit such
24 child in such home or institution and sub-
25 mit a report on such visit to the State

1 agency of the State in which the home of
2 the parents of the child is located,”.

3 (b) DISPOSITIONAL HEARING.—Section 475(5)(C)
4 (42 U.S.C. 675(5)(C)), as amended by section 305(b), is
5 amended by inserting “and, in the case of a child de-
6 scribed in subparagraph (A)(ii), whether the out-of-State
7 placement continues to be appropriate and in the best in-
8 terests of the child,” after “long-term basis)”.

9 (c) DATA COLLECTION.—Section 479(c)(3)(C) (42
10 U.S.C. 679(c)(3)(C)) is amended—

11 (1) by striking “and” at the end of clause (i);

12 and

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

14 “(iii) children placed in foster care
15 outside the State which has placement and
16 care responsibility, and”.

17 (d) EFFECTIVE DATES.—The amendments made by
18 this section shall be effective with respect to fiscal years
19 beginning on or after October 1, 1995.

20 **SEC. 210. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE**
21 **AND ADOPTION ASSISTANCE.**

22 (a) IN GENERAL.—Section 474(b) (42 U.S.C.
23 674(b)), as redesignated by section 306(b)(2), is amended
24 by adding at the end the following:

1 “(4)(A) Within 60 days after receipt of a State claim
2 for expenditures pursuant to subsection (a), the Secretary
3 shall allow, disallow, or defer such claim.

4 “(B) Within 15 days after a decision to defer such
5 a State claim, the Secretary shall notify the State of the
6 reasons for the deferral and of the additional information
7 necessary to determine the allowability of the claim.

8 “(C) Within 90 days after receiving such necessary
9 information (in readily reviewable form), the Secretary
10 shall—

11 “(i) disallow the claim, if able to complete the
12 review and determine that the claim is not allowable,
13 or

14 “(ii) in any other case, allow the claim, subject
15 to disallowance (as necessary)—

16 “(I) upon completion of the review, if it is
17 determined that the claim is not allowable; or

18 “(II) on the basis of findings of an audit
19 or financial management review.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall be effective with respect to claims
22 made on or after the date of the enactment of this Act.

1 **SEC. 211. EFFECT OF FAILURE TO CARRY OUT STATE**
2 **PLAN.**

3 (a) IN GENERAL.—Part A of title XI (42 U.S.C.
4 1301–1320b–13), as amended by section 307, is amended
5 by inserting after section 1129 the following:

6 “EFFECT OF FAILURE TO CARRY OUT STATE PLAN

7 “SEC. 1130. In an action brought to enforce a provi-
8 sion of the Social Security Act, such provision is not to
9 be deemed unenforceable because of its inclusion in a sec-
10 tion of the Act requiring a State plan or specifying the
11 required contents of a State plan. This section is not in-
12 tended to limit or expand the grounds for determining the
13 availability of private actions to enforce State plan re-
14 quirements other than by overturning any such grounds
15 applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992),
16 but not applied in prior Supreme Court decisions respect-
17 ing such enforceability: *Provided, however,* That this sec-
18 tion is not intended to alter the holding in *Suter v. Artist*
19 *M.* that section 471(a)(15) of the Act is not enforceable
20 in a private right of action.”.

21 (b) APPLICABILITY.—The amendment made by sub-
22 section (a) shall apply to actions pending on the date of
23 the enactment of this Act and to actions brought on or
24 after such date of enactment.

1 **Subtitle B—Child Support**
2 **Enforcement**

3 **SEC. 212. REPORTS TO CREDIT BUREAUS ON PERSONS DE-**
4 **LINQUENT IN CHILD SUPPORT PAYMENTS.**

5 (a) IN GENERAL.—Section 466(a)(7) (42 U.S.C.
6 666(a)(7)) is amended—

7 (1) by striking “Procedures” and all that fol-
8 lows through “request of such agency” and inserting
9 “Procedures which require the State to periodically
10 report to consumer reporting agencies (as defined in
11 section 603(f) of the Fair Credit Reporting Act (15
12 U.S.C. 1681a(f))) the name of any parent who owes
13 overdue support and is at least 2 months delinquent
14 in the payment of such support and the amount of
15 such delinquency; and

16 (2) by striking “(C) a fee” and all that follows
17 through “by the State” and inserting “(C) such in-
18 formation shall not be made available to (i) a
19 consumer reporting agency which the State deter-
20 mines does not have sufficient capability to system-
21 atically and timely make accurate use of such infor-
22 mation, or (ii) an entity which has not furnished evi-
23 dence satisfactory to the State that the entity is a
24 consumer reporting agency”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect on October 1, 1995.

3 **SEC. 213. TECHNICAL AMENDMENTS TO PROVISION ON**
4 **STATE PATERNITY ESTABLISHMENT PRO-**
5 **GRAMS.**

6 Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)), as
7 amended by section 13721(a) of OBRA–1993, is amend-
8 ed—

9 (1) in clause (i), by striking “during the fiscal
10 year”;

11 (2) in subclause (I) of clause (ii), by striking
12 “as of the end of the fiscal year” and inserting “in
13 the fiscal year or, at the option of the State, as of
14 the end of such year”;

15 (3) in subclause (II) of clause (ii), by striking
16 “or (E) as of the end of the fiscal year” and insert-
17 ing “in the fiscal year or, at the option of the State,
18 as of the end of such year”;

19 (4) in clause (iii), by striking “during the fiscal
20 year”; and

21 (5) in the matter following clause (iii)—

22 (A) by striking “who were born out of wed-
23 lock during the immediately preceding fiscal
24 year” and inserting “born out of wedlock”;

1 (B) by striking “such preceding fiscal
2 year” both places it appears and inserting “the
3 preceding fiscal year”; and

4 (C) by striking “or E” the second place it
5 appears.

6 **SEC. 214. AGREEMENT TO ASSIST IN LOCATING MISSING**
7 **CHILDREN UNDER THE PARENT LOCATOR**
8 **SERVICE.**

9 (a) IN GENERAL.—Section 463 (42 U.S.C. 663) is
10 amended by adding at the end the following new sub-
11 section:

12 “(f) The Secretary shall enter into an agreement with
13 the Attorney General of the United States, under which
14 the services of the Parent Locator Service established
15 under section 453 shall be made available to the Office
16 of Juvenile Justice and Delinquency Prevention upon its
17 request to locate any parent or child on behalf of such
18 Office for the purpose of—

19 “(1) enforcing any State or Federal law with
20 respect to the unlawful taking or restraint of a child,
21 or

22 “(2) making or enforcing a child custody deter-
23 mination.

24 The Parent Locator Service shall charge no fees for serv-
25 ices requested pursuant to this subsection.”.

1 (b) CONFORMING AMENDMENT.—Section 463(c) (42
2 U.S.C. 663(c)) is amended by striking “(a), (b), or (e)”
3 and inserting “(a), (b), (e), or (f)”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on October 1, 1995.

6 **Subtitle C—Supplemental Security**
7 **Income**

8 **SEC. 221. DEFINITION OF DISABILITY FOR CHILDREN**
9 **UNDER AGE 18 APPLIED TO ALL INDIVIDUALS**
10 **UNDER AGE 18.**

11 (a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C.
12 1382c(a)(3)) is amended—

13 (1) in subparagraphs (A) and (H), by striking
14 “a child” each place it appears and inserting “an in-
15 dividual”; and

16 (2) in subparagraph (H), by striking “child”
17 the second and third place it appears and inserting
18 “individual”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to determinations made on or
21 after the date of the enactment of this Act.

1 **Subtitle D—Aid to Families With**
2 **Dependent Children**

3 **SEC. 231. SIMPLIFICATION OF INCOME AND ELIGIBILITY**
4 **VERIFICATION SYSTEM.**

5 Paragraph (1)(A) of section 1137(d) (42 U.S.C.
6 1320b–7(d)) is amended to read as follows:

7 “(1)(A) The State shall require, as a condition
8 of an individual’s eligibility for benefits under a pro-
9 gram listed in subsection (b), a declaration in writ-
10 ing, under penalty of perjury—

11 “(i) by the individual,

12 “(ii) in the case in which eligibility for pro-
13 gram benefits is determined on a family or
14 household basis, by any adult member of such
15 individual’s family or household (as applicable),
16 or

17 “(iii) in the case of an individual born into
18 a family or household receiving benefits under
19 such program, by any adult member of such
20 family or household no later than the next rede-
21 termination of eligibility of such family or
22 household following the birth of such individual,
23 stating whether the individual is a citizen or national
24 of the United States, and, if that individual is not

1 a citizen or national of the United States, that the
2 individual is in a satisfactory immigration status.”.

3 **SEC. 232. MEASUREMENT AND REPORTING OF WELFARE**

4 **RECEIPT.**

5 (a) CONGRESSIONAL POLICY.—The Congress hereby
6 declares that—

7 (1) it is the policy and responsibility of the
8 Federal Government to reduce the rate at which and
9 the degree to which families depend on income from
10 welfare programs and the duration of welfare re-
11 ceipt, consistent with other essential national goals;

12 (2) it is the policy of the United States to
13 strengthen families, to ensure that children grow up
14 in families that are economically self-sufficient and
15 that the life prospects of children are improved, and
16 to underscore the responsibility of parents to sup-
17 port their children;

18 (3) the Federal Government should help welfare
19 recipients as well as individuals at risk of welfare re-
20 ceipt to improve their education and job skills, to ob-
21 tain child care and other necessary support services,
22 and to take such other steps as may be necessary to
23 assist them to become financially independent; and

24 (4) it is the purpose of this section to provide
25 the public with generally accepted measures of wel-

1 fare receipt so that it can track such receipt over
2 time and determine whether progress is being made
3 in reducing the rate at which and, to the extent fea-
4 sible, the degree to which, families depend on income
5 from welfare programs and the duration of welfare
6 receipt.

7 (b) DEVELOPMENT OF WELFARE INDICATORS AND
8 PREDICTORS.—The Secretary of Health and Human Serv-
9 ices (in this section referred to as the “Secretary”) in con-
10 sultation with the Secretary of Agriculture shall—

11 (1) develop—

12 (A) indicators of the rate at which and, to
13 the extent feasible, the degree to which, families
14 depend on income from welfare programs and
15 the duration of welfare receipt; and

16 (B) predictors of welfare receipt;

17 (2) assess the data needed to report annually
18 on the indicators and predictors, including the abil-
19 ity of existing data collection efforts to provide such
20 data and any additional data collection needs; and

21 (3) not later than 2 years after the date of the
22 enactment of this section, provide an interim report
23 containing conclusions resulting from the develop-
24 ment and assessment described in paragraphs (1)
25 and (2), to—

1 (A) the Committee on Ways and Means of
2 the House of Representatives;

3 (B) the Committee on Education and
4 Labor of the House of Representatives;

5 (C) the Committee on Agriculture of the
6 House of Representatives;

7 (D) the Committee on Energy and Com-
8 merce of the House of Representatives;

9 (E) the Committee on Finance of the Sen-
10 ate;

11 (F) the Committee on Labor and Human
12 Resources of the Senate; and

13 (G) the Committee on Agriculture, Nutri-
14 tion, and Forestry of the Senate.

15 (c) ADVISORY BOARD ON WELFARE INDICATORS.—

16 (1) ESTABLISHMENT.—There is established an
17 Advisory Board on Welfare Indicators (in this sub-
18 section referred to as the “Board”).

19 (2) COMPOSITION.—The Board shall be com-
20 posed of 12 members with equal numbers to be ap-
21 pointed by the House of Representatives, the Senate,
22 and the President. The Board shall be composed of
23 experts in the fields of welfare research and welfare
24 statistical methodology, representatives of State and

1 local welfare agencies, and organizations concerned
2 with welfare issues.

3 (3) VACANCIES.—Any vacancy occurring in the
4 membership of the Board shall be filled in the same
5 manner as the original appointment for the position
6 being vacated. The vacancy shall not affect the
7 power of the remaining members to execute the du-
8 ties of the Board.

9 (4) DUTIES.—Duties of the Board shall in-
10 clude—

11 (A) providing advice and recommendations
12 to the Secretary on the development of indica-
13 tors of the rate at which and, to the extent fea-
14 sible, the degree to which, families depend on
15 income from welfare programs and the duration
16 of welfare receipt; and

17 (B) providing advice on the development
18 and presentation of annual reports required
19 under subsection (d).

20 (5) TRAVEL EXPENSES.—Members of the
21 Board shall not be compensated, but shall receive
22 travel expenses, including per diem in lieu of subsist-
23 ence, at rates authorized for employees of agencies
24 under subchapter I of chapter 57 of title 5, United
25 States Code, for each day the member is engaged in

1 the performance of duties away from the home or
2 regular place of business of the member.

3 (6) DETAIL OF FEDERAL EMPLOYEES.—The
4 Secretary shall detail, without reimbursement, any
5 of the personnel of the Department of Health and
6 Human Services to the Board to assist the Board in
7 carrying out its duties. Any detail shall not interrupt
8 or otherwise affect the civil service status or privi-
9 leges of the Federal employee.

10 (7) VOLUNTARY SERVICE.—Notwithstanding
11 section 1342 of title 31, United States Code, the
12 Board may accept the voluntary services provided by
13 a member of the Board.

14 (8) TERMINATION OF BOARD.—The Board shall
15 be terminated at such time as the Secretary deter-
16 mines the duties described in paragraph (4) have
17 been completed, but in any case prior to the submis-
18 sion of the first report required under subsection
19 (d).

20 (d) ANNUAL WELFARE INDICATORS REPORT.—

21 (1) PREPARATION.—The Secretary shall pre-
22 pare annual reports on welfare receipt in the United
23 States.

24 (2) COVERAGE.—The report shall include anal-
25 ysis of families and individuals receiving assistance

1 under means-tested benefit programs, including the
2 program of aid to families with dependent children
3 under part A of title IV of the Social Security Act
4 (42 U.S.C. 601 et seq.), the food stamp program
5 under the Food Stamp Act of 1977 (7 U.S.C. 2011
6 et seq.), and the Supplemental Security Income pro-
7 gram under title XVI of the Social Security Act (42
8 U.S.C. 1381 et seq.), or as general assistance under
9 programs administered by State and local govern-
10 ments.

11 (3) CONTENTS.—Each report shall set forth for
12 each of the means-tested benefit programs described
13 in paragraph (2)—

14 (A) indicators of—

15 (i) the rate at which and, to the ex-
16 tent feasible, the degree to which, families
17 depend on income from welfare programs,
18 and

19 (ii) the duration of welfare receipt;

20 (B) trends in indicators;

21 (C) predictors of welfare receipt;

22 (D) the causes of welfare receipt;

23 (E) patterns of multiple program receipt;

24 (F) such other information as the Sec-
25 retary deems relevant; and

1 (G) such recommendations for legislation,
2 which shall not include proposals to reduce eli-
3 gibility levels or impose barriers to program ac-
4 cess, as the Secretary may determine to be nec-
5 essary or desirable to reduce—

6 (i) the rate at which and the degree to
7 which families depend on income from wel-
8 fare programs, and

9 (ii) the duration of welfare receipt.

10 (4) SUBMISSION.—The Secretary shall submit
11 such a report not later than 3 years after the date
12 of the enactment of this section and annually there-
13 after, to the committees specified in subsection
14 (b)(3)(C). Each such report shall be transmitted
15 during the first 60 days of each regular session of
16 Congress.

17 (e) SHORT TITLE.—This section may be cited as the
18 “Welfare Indicators Act of 1994”.

19 **SEC. 233. NEW HOPE DEMONSTRATION PROJECT.**

20 (a) IN GENERAL.—The Secretary of Health and
21 Human Services (in this section referred to as the “Sec-
22 retary”) shall provide for a demonstration project for a
23 qualified program to be conducted in Milwaukee, Wiscon-
24 sin, in accordance with this section.

1 (b) PAYMENTS.—For each calendar quarter in which
2 there is a qualified program approved under this sub-
3 section, the Secretary shall pay to the operator of the
4 qualified program, for no more than 20 calendar quarters,
5 an amount equal to the aggregate amount that would oth-
6 erwise have been payable to the State with respect to par-
7 ticipants in the program for such calendar quarter, in the
8 absence of the program, for cash assistance and child care
9 under part A of title IV of the Social Security Act, for
10 medical assistance under title XIX of such Act, and for
11 administrative expenses related to such assistance. The
12 amount payable to the operator of the program under this
13 section shall not include the costs of evaluating the effects
14 of the program.

15 (c) DEMONSTRATION PROJECT DESCRIBED.—For
16 purposes of this section, the term “qualified program”
17 means a program operated—

18 (1) by The New Hope Project, Inc., a private,
19 not-for-profit corporation incorporated under the
20 laws of the State of Wisconsin (in this section re-
21 ferred to as the “operator”), which offers low-income
22 residents of Milwaukee, Wisconsin, employment,
23 wage supplements, child care, health care, and coun-
24 seling and training for job retention or advancement;
25 and

1 (2) in accordance with an application submitted
2 by the operator of the program and approved by the
3 Secretary based on the Secretary's determination
4 that the application satisfies the requirements of
5 subsection (d).

6 (d) CONTENTS OF APPLICATION.—The operator of
7 the qualified program shall provide, in its application to
8 conduct a demonstration project for the program, that the
9 following terms and conditions will be met:

10 (1) The operator will develop and implement an
11 evaluation plan designed to provide valid and reliable
12 information on the impact and implementation of
13 the program. The evaluation plan will include ade-
14 quately sized groups of project participants and con-
15 trol groups assigned at random.

16 (2) The operator will develop and implement a
17 plan addressing the services and assistance to be
18 provided by the program, the timing and determina-
19 tion of payments from the Secretary to the operator
20 of the program, and the roles and responsibilities of
21 the Secretary and the operator with respect to meet-
22 ing the requirements of this paragraph.

23 (3) The operator will specify a reliable meth-
24 odology for determining expenditures to be paid to
25 the operator by the Secretary, with assistance from

1 the Secretary in calculating the amount that would
2 otherwise have been payable to the State in the ab-
3 sence of the program, pursuant to subsection (b).

4 (4) The operator will issue an interim and final
5 report on the results of the evaluation described in
6 paragraph (1) to the Secretary at such times as re-
7 quired by the Secretary.

8 (e) EFFECTIVE DATE.—This section shall take effect
9 on the first day of the first calendar quarter that begins
10 after the date of the enactment of this Act.

11 **SEC. 234. DELAY IN REQUIREMENT THAT OUTLYING**
12 **AREAS OPERATE AN AFDC-UP PROGRAM.**

13 (a) IN GENERAL.—Section 401(g)(2) of the Family
14 Support Act of 1988 (42 U.S.C. 602 note; 102 Stat.
15 2396) is amended by striking “October 1, 1992” and in-
16 sserting “the date of the repeal of the limitations contained
17 in section 1108(a) of the Social Security Act on payments
18 to such jurisdictions for purposes of making maintenance
19 payments under parts A and E of title IV of such Act”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect as if included in the provi-
22 sion of the Family Support Act of 1988 to which the
23 amendment relates at the time such provision became law.

1 **SEC. 235. STATE OPTION TO USE RETROSPECTIVE BUDG-**
2 **ETING WITHOUT MONTHLY REPORTING.**

3 (a) IN GENERAL.—Section 402(a)(13) (42 U.S.C.
4 602(a)(13)) is amended—

5 (1) by striking all that precedes subparagraph
6 (A) and inserting the following:

7 “(13) provide, at the option of the State and
8 with respect to such category or categories as the
9 State may select and identify in the State plan,
10 that—”; and

11 (2) in each of subparagraphs (A) and (B), by
12 striking “, in the case of families who are required
13 to report monthly to the State agency pursuant to
14 paragraph (14)”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall take effect on October 1, 1994, and
17 shall apply to payments under part A of title IV of the
18 Social Security Act for fiscal year 1994 and such pay-
19 ments for succeeding fiscal years.

20 **Subtitle E—JOBS Program**

21 **SEC. 241. EXPANSION OF COVERAGE FOR INDIAN TRIBES.**

22 (a) IN GENERAL.—Section 482(i)(2)(A) (42 U.S.C.
23 682(i)(2)(A)) is amended by striking “members of such
24 Indian tribe receiving aid to families with dependent chil-
25 dren” and inserting “Indians receiving aid to families with

1 dependent children who reside on the reservation or within
2 the designated service area”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on October 1, 1995.

5 **SEC. 242. REPORT TO THE CONGRESS WITH RESPECT TO**
6 **PERFORMANCE STANDARDS IN THE JOBS**
7 **PROGRAM.**

8 Section 487(a) (42 U.S.C. 687(a)) is amended—

9 (1) by striking “3” and inserting “4”;

10 (2) in paragraph (1), by inserting “criteria for”
11 after “develop”;

12 (3) in paragraph (2), by striking “for” and in-
13 serting “with respect to”; and

14 (4) in the second sentence, by striking “under
15 this subsection” and inserting “with respect to the
16 program under this part”.

17 **Subtitle F—Other Provisions**

18 **SEC. 261. EXTENSION OF DEMONSTRATION TO EXPAND**
19 **JOB OPPORTUNITIES.**

20 (a) IN GENERAL.—Section 505 of the Family Sup-
21 port Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2404)
22 is amended—

23 (1) in subsection (e), by striking “3-year pe-
24 riod” and inserting “6-year period”,

1 “(1) REMITTED AMOUNTS.—The amount speci-
2 fied in section 2003(c) for any fiscal year is hereby
3 increased by the total of the amounts remitted dur-
4 ing the fiscal year pursuant to subsection (d) of this
5 section.

6 “(2) AMOUNTS NOT PAID TO THE STATES.—
7 The amount specified in section 2003(c) for fiscal
8 year 1998 is hereby increased by the amount made
9 available for grants under this section that has not
10 been paid to any State by the end of fiscal year
11 1997.”.

12 **SEC. 264. CORRECTIONS RELATED TO THE INCOME SECU-**
13 **RITY AND HUMAN RESOURCES PROVISIONS**
14 **OF THE OBRA-1990.**

15 (a) AMENDMENT RELATED TO SECTION
16 5035(a)(2).—Section 5035(a)(2) of OBRA-1990 is
17 amended by striking “a semicolon” and inserting
18 “‘; and’”.

19 (b) AMENDMENT RELATED TO SECTION 5040.—Sec-
20 tion 1631(n) (42 U.S.C. 1383(n)) is amended by striking
21 “subsection” and inserting “section”.

22 (c) AMENDMENT RELATED TO SECTION 5051(a).—
23 Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended to
24 read as follows:

1 “(14) at the option of the State and with re-
2 spect to such category or categories as the State
3 may select and identify in the plan, provide that—

4 “(A) the State agency will require each
5 family to which the State provides (or, but for
6 paragraph (22) or (32), would provide) aid to
7 families with dependent children, as a condition
8 to the continued receipt of such aid (or to con-
9 tinuing to be deemed to be a recipient of such
10 aid), to report to the State agency monthly (or
11 less frequently in the case of such categories of
12 recipients as the State may select) on—

13 “(i) the income of the family, the
14 composition of the family, and other rel-
15 evant circumstances during the prior
16 month; and

17 “(ii) the income and resources the
18 family expects to receive, or any changes in
19 circumstances affecting continued eligi-
20 bility for, or amount of benefits, the family
21 expects to occur, in that month or in fu-
22 ture months; and

23 “(B) in addition to any action that may be
24 appropriate based on other reports or informa-

1 tion received by the State agency, the State
2 agency will—

3 “(i) take prompt action to adjust the
4 amount of assistance payable, as may be
5 appropriate, on the basis of the informa-
6 tion contained in the report (or upon the
7 failure of the family to submit a timely re-
8 port); and

9 “(ii) give the family an appropriate
10 explanatory notice concurrent with any ac-
11 tion taken under clause (i);”.

12 (d) REPEAL OF PROVISION INADVERTENTLY IN-
13 CLUDED.—Section 5057 of OBRA-1990, and the amend-
14 ment made by such section, are hereby repealed, and sec-
15 tion 1139(d) of the Social Security Act shall be applied
16 and administered as if such section 5057 had never been
17 enacted.

18 (e) AMENDMENT RELATED TO SECTION
19 5105(a)(1)(B).—The second paragraph of section 1631(a)
20 (42 U.S.C. 1383(a)) is amended by striking “(A)(i) Pay-
21 ments” and inserting “(2)(A)(i) Payments”.

22 (f) AMENDMENTS RELATED TO SECTION 5105(b).—
23 Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is
24 amended—

1 (1) in clause (i), by striking “to representative”
2 and inserting “to a representative”;

3 (2) by striking clause (ii);

4 (3) by redesignating clauses (iii), (iv), and (v)
5 as clauses (ii), (iii), and (iv), respectively; and

6 (4) in clause (iv) (as so redesignated), by strik-
7 ing “(iii), and (iv)” and inserting “and (iii)”.

8 (g) AMENDMENTS RELATED TO SECTION
9 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C.
10 1383(c)(1)(B)) is amended by striking “paragraph (1)”
11 each place such term appears and inserting “subpara-
12 graph (A)”.

13 (h) EFFECTIVE DATE.—Each amendment made by
14 this section shall take effect as if included in the provision
15 of OBRA–1990 to which the amendment relates at the
16 time such provision became law.

17 **SEC. 265. TECHNICAL CORRECTIONS RELATED TO THE**
18 **HUMAN RESOURCE AND INCOME SECURITY**
19 **PROVISIONS OF THE OBRA-1989.**

20 (a) AMENDMENT RELATING TO SECTION 8004(a).—
21 Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is
22 amended by striking “a fiscal” and inserting “the fiscal”.

23 (b) AMENDMENT RELATING TO SECTION 8006(a).—
24 Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amend-

1 ed by striking “474(a)(3)(B)” and inserting
2 “474(a)(3)(C)”.

3 (c) AMENDMENT RELATING TO SECTION
4 8007(b)(3).—Subparagraph (D) of section 475(5) (42
5 U.S.C. 675(5)(D)) is amended by moving such subpara-
6 graph 2 ems to the right so that the left margin of such
7 subparagraph is aligned with the left margin of subpara-
8 graph (C) of such section.

9 (d) EFFECTIVE DATE.—Each amendment made by
10 this section shall take effect as if the amendment had been
11 included in the provision of OBRA-1989 to which the
12 amendment relates, at the time the provision became law.

13 **SEC. 266. TECHNICAL CORRECTION RELATED TO THE**
14 **HUMAN RESOURCE AND INCOME SECURITY**
15 **PROVISIONS OF THE OBRA-1993.**

16 (a) AMENDMENT RELATING TO SECTION
17 13713(a).—Section 473(a)(6)(B) (42 U.S.C.
18 673(a)(6)(B)) is amended by striking “474(a)(3)(C)” and
19 inserting “474(a)(3)(E)”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall take effect as if the amendment had been
22 included in the provision of OBRA-1993 to which the
23 amendment relates, at the time the provision became law.

1 **SEC. 267. ELIMINATION OF OBSOLETE PROVISIONS RELAT-**
2 **ING TO TREATMENT OF THE EARNED IN-**
3 **COME TAX CREDIT.**

4 (a) TREATMENT OF EITC AS EARNED INCOME.—
5 Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended
6 by striking subparagraph (C) and by redesignating sub-
7 paragraphs (D) and (E) as subparagraphs (C) and (D),
8 respectively.

9 (b) ADJUSTMENT OF BENEFITS DUE TO TREAT-
10 MENT OF EITC AS EARNED INCOME.—Section 1631(b)
11 (42 U.S.C. 1383(b)) is amended by striking paragraph (3)
12 and by redesignating paragraphs (4) and (5) as para-
13 graphs (3) and (4), respectively.

14 **SEC. 268. REDESIGNATION OF CERTAIN PROVISIONS.**

15 Section 1631(e)(6) (42 U.S.C. 1383(e)(6)) is amend-
16 ed by redesignating subparagraphs (1) and (2) as sub-
17 paragraphs (A) and (B), respectively.

Passed the House of Representatives October 7,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.

103^D CONGRESS
2^D SESSION

H. R. 5252

AN ACT

To amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.