

104TH CONGRESS
1ST SESSION

H. R. 1668

To establish a program to control fraud and abuse in the medicare program, to increase the amount of civil monetary penalties which may be assessed against individuals and entities committing fraud against the medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1995

Ms. DANNER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a program to control fraud and abuse in the medicare program, to increase the amount of civil monetary penalties which may be assessed against individuals and entities committing fraud against the medicare program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Fraud and
5 Abuse Control Act of 1995”.

1 **SEC. 2. ESTABLISHMENT OF MEDICARE FRAUD AND ABUSE**
2 **CONTROL PROGRAM.**

3 (a) IN GENERAL.—Not later than 6 months after the
4 date of the enactment of this Act, the Secretary of Health
5 and Human Services shall establish a program to improve
6 the prevention, detection, and control of fraud and abuse
7 under the medicare program.

8 (b) AWARD OF PORTION OF AMOUNTS COLLECTED
9 TO INDIVIDUALS PROVIDING INFORMATION.—Under the
10 program established pursuant to subsection (a), the Sec-
11 retary shall pay a portion of any civil monetary penalty
12 assessed under the medicare program to any individual or
13 entity who provided information which served as the basis
14 for the assessment of the penalty, under the same terms
15 and conditions applicable to awards to qui tam plaintiffs
16 under chapter 37 of title 31, United States Code.

17 **SEC. 3. PROVIDING INFORMATION ON REPORTING FRAUD**
18 **AND ABUSE WITH MEDICARE CLAIMS AND**
19 **BENEFIT FORMS.**

20 (a) IN GENERAL.—Title XVIII of the Social Security
21 Act (42 U.S.C. 1395 et seq.) is amended by adding at
22 the end the following new section:

23 “SOLICITATION OF INFORMATION ON FRAUD AND ABUSE
24 “SEC. 1893. With each explanation of benefits pro-
25 vided to an individual to whom items or services are fur-
26 nished under this title and with each notice of payment

1 provided to an individual or entity furnishing an item or
2 service for which payment is made under this title, the
3 Secretary shall include a statement soliciting any informa-
4 tion the individual or entity may possess on any fraud and
5 abuse committed against the program under this title, to-
6 gether with a toll-free telephone number through which
7 the individual or entity may report such information.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to items and services furnished
10 and payments made under title XVIII of the Social Secu-
11 rity Act on or after January 1, 1996.

12 **SEC. 4. INCREASE IN AMOUNT OF PENALTIES.**

13 (a) IN GENERAL.—

14 (1) GENERAL CIVIL MONETARY PENALTIES.—
15 Section 1128A of the Social Security Act (42 U.S.C.
16 1320a–7a) is amended—

17 (A) in subsection (a)—

18 (i) by striking “\$2,000” and inserting
19 “\$4,000”, and

20 (ii) by striking “\$15,000” and insert-
21 ing “\$30,000”; and

22 (B) in subsection (b), by striking “\$2,000”
23 each place it appears and inserting “\$4,000”.

24 (2) CRIMINAL PENALTIES.—Section 1128B of
25 such Act (42 U.S.C. 1320a–7b) is amended—

1 (A) in subsection (a)—

2 (i) by striking “\$25,000” and insert-
3 ing “\$50,000”, and

4 (ii) by striking “\$10,000” and insert-
5 ing “\$20,000”;

6 (B) in subsections (b), (c), and (d), by
7 striking “\$25,000” each place it appears and
8 inserting “\$50,000”; and

9 (C) in subsection (e), by striking “\$2,000”
10 and inserting “\$4,000”.

11 (3) STANDARDS FOR NURSING FACILITIES.—

12 (A) PROVIDING ADVANCE NOTICE OF SUR-
13 VEY TO NURSING FACILITY.—Section
14 1819(g)(2)(A)(i) of such Act (42 U.S.C.
15 1395i@3(g)(2)(A)(i)) is amended by striking
16 “\$2,000” and inserting “\$4,000”.

17 (B) NONCOMPLIANCE WITH NURSING FA-
18 CILITY STANDARDS.—Section 1819(h)(2)(B)(ii)
19 of such Act (42 U.S.C. 1395i@3(h)(2)(B)(ii))
20 is amended by striking “\$10,000” and inserting
21 “\$20,000”.

22 (4) FAILURE TO PROVIDE INFORMATION ON RE-
23 FERRING PHYSICIAN ON UNASSIGNED CLAIMS.—Sec-
24 tion 1833(q)(2)(B)(i) of such Act (42 U.S.C.

1 1395l(q)(2)(B)(i) is amended by striking “\$2,000”
2 and inserting “\$4,000”.

3 (5) DISTRIBUTION BY SUPPLIERS OF MEDICAL
4 EQUIPMENT OF MEDICAL NECESSITY FORMS.—Sec-
5 tion 1834(j)(2)(A)(iii) of such Act (42 U.S.C.
6 1395m(j)(2)(A)(iii)), as added by section 131(a)(1)
7 of the Social Security Act Amendments of 1994, is
8 amended by striking “\$1,000” and inserting
9 “\$2,000”.

10 (6) FAILURE TO INCLUDE DIAGNOSIS CODE ON
11 UNASSIGNED CLAIMS.—Section 1842(p)(3)(A) of
12 such Act (42 U.S.C. 1395u(p)(3)(A)) is amended by
13 striking “\$2,000” and inserting “\$4,000”.

14 (7) INTERMEDIATE SANCTIONS FOR PROVIDERS
15 OR SUPPLIERS OF CLINICAL DIAGNOSTIC LABORA-
16 TORY TESTS.—Section 1846(b)(2)(A)(ii) of such Act
17 (42 U.S.C. 1395w@2(b)(2)(A)(ii)) is amended by
18 striking “\$10,000” and inserting “\$20,000”.

19 (8) MEDICARE SECONDARY PAYER.—

20 (A) OFFERING FINANCIAL INCENTIVES
21 FOR BENEFICIARIES NOT TO ENROLL IN PRI-
22 MARY PLANS.—The second sentence of section
23 1862(b)(3)(C) of such Act (42 U.S.C.
24 1395y(b)(3)(C)) is amended by striking
25 “\$5,000” and inserting “\$10,000”.

1 (B) FAILURE OF EMPLOYER TO PROVIDE
2 MATCHING INFORMATION ON SECONDARY
3 PAYER SITUATIONS.—The second sentence of
4 section 1862(b)(5)(C)(ii) of such Act (42
5 U.S.C. 1395y(b)(5)(C)(ii)) is amended by strik-
6 ing “\$1,000” and inserting “\$2,000”.

7 (C) FAILURE OF PROVIDER TO PROVIDE
8 INFORMATION ON AVAILABILITY OF OTHER
9 PAYERS.—Section 1862(b)(6)(B) of such Act
10 (42 U.S.C. 1395y(b)(6)(B)), as added by sec-
11 tion 151(a)(2)(A) of the Social Security Act
12 Amendments of 1994, is amended by striking
13 “\$2,000” and inserting “\$4,000”.

14 (9) IMPROPER BILLING BY HOSPITALS.—Sec-
15 tion 1866(g) of such Act (42 U.S.C. 1395cc(g)) is
16 amended by striking “\$2,000” and inserting
17 “\$4,000”.

18 (10) VIOLATION OF ANTI-DUMPING RESTRIC-
19 TIONS.—Section 1867(d)(1) of such Act (42 U.S.C.
20 1395dd(d)(1)) is amended—

21 (A) by striking “\$50,000” each place it
22 appears and inserting “\$100,000”; and

23 (B) in subparagraph (A), by striking
24 “\$25,000” and inserting “\$50,000”.

1 (11) SANCTIONS AGAINST HEALTH MAINTENANCE ORGANIZATIONS.—Section 1876(i)(6)(B)(i)
2 of such Act (42 U.S.C. 1395mm(i)(6)(B)(i)) is
3 amended—
4

5 (A) by striking “\$25,000” and inserting
6 “\$50,000”;

7 (B) by striking “\$100,000” and inserting
8 “\$200,000”; and

9 (C) by striking “\$15,000” and inserting
10 “\$30,000”.

11 (12) REFERRALS BY PHYSICIANS WITH OWNERSHIP OR INVESTMENT INTERESTS.—
12

13 (A) IMPROPER CLAIMS.—Section
14 1877(g)(3) of such Act (42 U.S.C.
15 1395nn(g)(3)) is amended by striking
16 “\$15,000” and inserting “\$30,000”.

17 (B) CIRCUMVENTION SCHEMES.—Section
18 1877(g)(4) of such Act (42 U.S.C.
19 1395nn(g)(4)) is amended by striking
20 “\$100,000” and inserting “\$200,000”.

21 (C) FAILURE TO REPORT INFORMATION.—
22 Section 1877(g)(5) of such Act (42 U.S.C.
23 1395nn(g)(5)) is amended by striking
24 “\$10,000” and inserting “\$20,000”.

25 (13) MEDICARE SUPPLEMENTAL POLICIES.—

1 (A) ISSUANCE OF POLICIES WHERE NO
2 STANDARDS IN EFFECT.—The second sentence
3 of section 1882(a)(2) of such Act (42 U.S.C.
4 1395ss(a)(2)) is amended by striking
5 “\$25,000” and inserting “\$50,000”.

6 (B) MISREPRESENTATIONS OF POLICIES.—
7 Section 1882(d) of such Act (42 U.S.C.
8 1395ss(d)) is amended—

9 (i) in paragraphs (1), (2), and (4)(A),
10 by striking “\$5,000” and inserting
11 “\$10,000”; and

12 (ii) in paragraphs (3)(A) and
13 (3)(B)(iv), by striking “\$25,000 (or
14 \$15,000” and inserting “\$50,000 (or
15 \$30,000”.

16 (C) VIOLATION OF BENEFITS STAND-
17 ARDS.—Section 1882(p) of such Act (42 U.S.C.
18 1395ss(p)) is amended by striking “\$25,000 (or
19 \$15,000” each place it appears in paragraphs
20 (8) and (9)(C) and inserting “\$50,000 (or
21 \$30,000”.

22 (D) VIOLATION OF GUARANTEED RENEW-
23 ABILITY STANDARDS.—Section 1882(q)(5)(C)
24 of such Act (42 U.S.C. 1395ss(q)(5)(C)) is

1 amended by striking “\$25,000” and inserting
2 “\$50,000”.

3 (E) VIOLATION OF LOSS RATIO STAND-
4 ARDS.—Section 1882(r)(6)(A) of such Act (42
5 U.S.C. 1395ss(r)(6)(A)) is amended by striking
6 “\$25,000” and inserting “\$50,000”.

7 (F) VIOLATION OF PRE-EXISTING CONDI-
8 TION STANDARDS.—Section 1882(s)(3) of such
9 Act (42 U.S.C. 1395ss(s)(3)) is amended by
10 striking “\$5,000” and inserting “\$10,000”.

11 (G) MEDICARE SELECT POLICIES.—Section
12 1882(t)(2) of such Act (42 U.S.C.
13 1395ss(t)(2)) is amended by striking “\$25,000”
14 and inserting “\$50,000”.

15 (14) VIOLATION OF HOME HEALTH PARTICIPA-
16 TION STANDARDS.—Section 1891 of such Act (42
17 U.S.C. 1395bbb) is amended—

18 (A) in subsection (a)(3)(D)(iii)(III), by
19 striking “\$5,000” and inserting “\$10,000”;

20 (B) in subsection (c)(1), by striking
21 “\$2,000” and inserting “\$4,000” ; and

22 (C) in subsection (f)(2)(A)(i), by striking
23 “\$10,000” and inserting “\$20,000”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall apply to civil monetary penalties im-

1 posed with respect to acts or omissions occurring on or
2 after January 1, 1996.

○