AMENDMENT NO. 3560

Purpose: To implement policies from the President's proposal to reduce waste, fraud, and abuse in Medicare and Medicaid and save taxpayer dollars.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

H.R. 4872

AMENDMENT NO. 3560

To: H.R. 4872

By Coburn

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. COBURN

Viz:

1 At the end of title I, add the following:

2 Subtitle G—Additional Provisions

3 Eliminating Waste, Fraud, and Abuse

4 SEC. 1601. SITE INSPECTIONS; BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES.

5 (a) SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PRO-
VIDER GROUPS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by sections 3022 and 3403 of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

"SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS

"Sec. 1899B. (a) Site Inspections.—

"(1) IN GENERAL.—The Secretary shall conduct a site inspection for each applicable provider (as defined in paragraph (2)) that applies to enroll under this title in order to provide items or services under this title. Such site inspection shall be in addition to any other site inspection that the Secretary would otherwise conduct with regard to an applicable provider.

"(2) APPLICABLE PROVIDER DEFINED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in this section the term 'applicable provider' means—

"(i) a supplier of durable medical equipment (including items described in section 1834(a)(13));

"(ii) a supplier of prosthetics, orthotics, or supplies (including items de-
scribed in paragraphs (8) and (9) of section 1861(s));

"(iii) a community mental health center; or

"(iv) any other provider group, as determined by the Secretary (including suppliers, both participating suppliers and non-participating suppliers, as such terms are defined for purposes of section 1842).

"(B) EXCEPTION.—In this section, the term 'applicable provider' does not include—

"(i) a physician that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an office visit by such individual; or

"(ii) a hospital that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an emergency room visit by such individual.

"(b) STANDARDS AND REQUIREMENTS.—In conducting the site inspection pursuant to subsection (a), the
Secretary shall ensure that the site being inspected is in full compliance with all the conditions and standards of participation and requirements for obtaining billing privileges under this title.

"(c) TIME.—The Secretary shall conduct the site inspection for an applicable provider prior to the issuance of billing privileges under this title to such provider.

"(d) TIMELY REVIEW.—The Secretary shall provide for procedures to ensure that the site inspection required under this section does not unreasonably delay the issuance of billing privileges under this title to an applicable provider."

(b) BACKGROUND CHECKS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by subsection (a)) is amended by adding at the end the following new section:

"BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES

"SEC. 1899C. (a) BACKGROUND CHECK REQUIRED.—Except as provided in subsection (b), in addition to any screening conducted under section 1866(j), the Secretary shall conduct a background check on any individual or entity that enrolls under this title for the purpose of furnishing any item or service under this title, including any individual or entity that is a supplier, a person with an ownership or control interest, a managing employee (as
defined in section 1126(b)), or an authorized or delegated
official of the individual or entity. In performing the back-
ground check, the Secretary shall—

“(1) conduct the background check before au-
thorizing billing privileges under this title to the in-
dividual or entity, respectively;

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

“(3) provide for procedures that ensure the
background check does not unreasonably delay the
authorization of billing privileges under this title to
an eligible individual or entity, respectively; and

“(4) establish criteria for targeted reviews when
the individual or entity renews participation under
this title, with respect to the background check of
the individual or entity, respectively, to detect
changes in ownership, bankruptcies, or felonies by
the individual or entity.

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

“(c) ATTORNEY GENERAL REQUIRED TO PROVIDE
INFORMATION.—
“(1) IN GENERAL.—Upon request of the Secretary, the Attorney General shall provide the criminal background check information referred to in subsection (a)(2) to the Secretary.

“(2) RESTRICTION ON USE OF DISCLOSED INFORMATION.—The Secretary may only use the information disclosed under subsection (a) for the purpose of carrying out the Secretary’s responsibilities under this title.

“(d) REFUSAL TO AUTHORIZE BILLING PRIVILEGES.—

“(1) AUTHORITY.—In addition to any other remedy available to the Secretary, the Secretary may refuse to authorize billing privileges under this title to an individual or entity if the Secretary determines, after a background check conducted under this section, that such individual or entity, respectively, has a history of acts that indicate authorization of billing privileges under this title to such individual or entity, respectively, would be detrimental to the best interests of the program or program beneficiaries. Such acts may include—

“(A) any bankruptcy;

“(B) any act resulting in a civil judgment against such individual or entity; or
“(C) any felony conviction under Federal
or State law.
“(2) REPORTING OF REFUSAL TO AUTHORIZE
BILLING PRIVILEGES TO THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK (HIPDB).—
“(A) IN GENERAL.—Subject to subparagraph (B), a determination under paragraph (1) to refuse to authorize billing privileges under this title to an individual or entity as a result of a background check conducted under this section shall be reported to the healthcare integrity and protection data bank established under section 1128E in accordance with the procedures for reporting final adverse actions taken against a health care provider, supplier, or practitioner under that section.
“(B) EXCEPTION.—Any determination described in subparagraph (A) that the Secretary specifies is not appropriate for inclusion in the healthcare integrity and protection data bank established under section 1128E shall not be reported to such data bank.”.

(e) DENIAL AND SUSPENSION OF BILLING PRIVILEGES.—Section 1899C of the Social Security Act, as
added by subsection (b), is amended by adding at the end
the following new subsection:

"(e) Authority To Suspend Billing Privileges
or Refuse To Authorize Additional Billing Privileges.—

"(1) In general.—The Secretary may suspend
any billing privilege under this title authorized for
an individual or entity or refuse to authorize any ad-
ditional billing privilege under this title to such indi-
vidual or entity if—

"(A) such individual or entity, respectively,
has an outstanding overpayment due to the
Secretary under this title;

"(B) payments under this title to such in-
dividual or entity, respectively, have been sus-
pended; or

"(C) 100 percent of the payment claims
under this title for such individual or entity, re-
spectively, are reviewed on a pre-payment basis.

"(2) Application to Restructured Enti-
ties.—In the case that an individual or entity is
subject to a suspension or refusal of billing privileges
under this section, if the Secretary determines that
the ownership or management of a new entity is
under the control or management of such an indi-
vidual or entity subject to such a suspension or refusal, the new entity shall be subject to any such applicable suspension or refusal in the same manner and to the same extent as the initial individual or entity involved had been subject to such applicable suspension or refusal.

“(3) Duration of Suspension.—A suspension of billing privileges under this subsection, with respect to an individual or entity, shall be in effect beginning on the date of the Secretary’s determination that the offense was committed and ending not earlier than such date on which all applicable overpayments and other applicable outstanding debts have been paid and all applicable payment suspensions have been lifted.”.

(d) Regulations; Effective Date.—

(1) Regulations.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendments made by subsections (a), (b), and (c).

(2) Effective Dates.—

(A) Site Inspections and Background Checks.—The amendments made by sub-
sections (a) and (b) shall apply to applications to enroll under title XVIII of the Social Security Act received by the Secretary of Health and Human Services on or after the first day of the first year beginning after the date of the enactment of this Act.

(B) Denials and suspensions of billing privileges.—The amendment made by subsection (c) shall apply to overpayments or debts in existence on or after the date of the enactment of this Act, regardless of whether the final determination, with respect to such overpayment or debt, was made before, on, or after such date.

(e) Use of Medicare integrity program funds.—The Secretary of Health and Human Services may use funds appropriated or transferred for purposes of carrying out the Medicare integrity program established under section 1893 of the Social Security Act (42 U.S.C. 1395ddd) to carry out the provisions of sections 1899B and 1899C of that Act (as added by subsections (a) and (b)).
SEC. 1602. REGISTRATION AND BACKGROUND CHECKS OF
BILLING AGENCIES AND INDIVIDUALS.

(a) IN GENERAL.—Title XVIII of the Social Security
Act (42 U.S.C. 1395 et seq.) (as amended by section
1601) is amended by adding at the end the following new
section:

"REGISTRATION AND BACKGROUND CHECKS OF BILLING
AGENCIES AND INDIVIDUALS; IDENTIFICATION NUM-
BERS REQUIRED FOR PROVIDERS AND SUPPLIERS

"SEC. 1899D. (a) REGISTRATION.—

"(1) IN GENERAL.—The Secretary shall estab-
lish procedures, including modifying the Provider
Enrollment and Chain Ownership System (PECOS)
administered by the Centers for Medicare & Med-
icaid Services, to provide for the registration of all
applicable persons in accordance with this section.

"(2) REQUIRED APPLICATION.—Each applicable
person shall submit a registration application to the
Secretary at such time, in such manner, and accom-
panied by such information as the Secretary may re-
quire.

"(3) IDENTIFICATION NUMBER.—If the Sec-
retary approves an application submitted under sub-
section (b), the Secretary shall assign a unique iden-
tification number to the applicable person.
“(4) REQUIREMENT.—Every claim for reimbursement under this title that is compiled or submitted by an applicable person shall contain the identification number that is assigned to the applicable person pursuant to subsection (c).

“(5) TIMELY REVIEW.—The Secretary shall provide for procedures that ensure the timely consideration and determination regarding approval of applications under this subsection.

“(6) DEFINITION OF APPLICABLE PERSON.—In this section, the term ‘applicable person’ means any individual or entity that compiles or submits claims for reimbursement under this title to the Secretary on behalf of any individual or entity.

“(b) BACKGROUND CHECKS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall conduct a background check on any applicable person that registers under subsection (a). In performing the background check, the Secretary shall—

“(A) conduct the background check before issuing a unique identification number to the applicable person;

“(B) include a search of criminal records in the background check;
“(C) provide for procedures that ensure the background check does not unreasonably delay the issuance of the unique identification number to an eligible applicable person; and

“(D) establish criteria for periodic targeted reviews with respect to the background check of the applicable person.

“(2) USE OF STATE LICENSING PROCEDURE.—The Secretary may use the results of a State licensing procedure as a background check under paragraph (1) if the State licensing procedure meets the requirements of such paragraph.

“(3) ATTORNEY GENERAL REQUIRED TO PROVIDE INFORMATION.—

“(A) IN GENERAL.—Upon request of the Secretary, the Attorney General shall provide the criminal background check information referred to in paragraph (1)(B) to the Secretary.

“(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—The Secretary may only use the information disclosed under paragraph (1) for the purpose of carrying out the Secretary’s responsibilities under this title.

“(4) REFUSAL TO ISSUE UNIQUE IDENTIFICATION NUMBER.—In addition to any other remedy available to
the Secretary, the Secretary may refuse to issue a unique
identification number described in subsection (a)(3) to an
applicable person if the Secretary determines, after a
background check conducted under this subsection, that
such person has a history of acts that indicate issuance
of such number under this title to such person would be
detrimental to the best interests of the program or pro-
gram beneficiaries. Such acts may include—

“(A) any bankruptcy;

“(B) any act resulting in a civil judgment
against such person; or

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

“(e) IDENTIFICATION NUMBERS FOR PROVIDERS
AND SUPPLIERS.—The Secretary shall establish proce-
dures to ensure that each provider of services and each
supplier that submits claims for reimbursement under this
title to the Secretary is assigned a unique identification
number.”.

(b) PERMISSIVE EXCLUSION.—Section 1128(b) of
the Social Security Act (42 U.S.C. 1320a–7(b)), as
amended by section 6402(d) of the Patient Protection and
Affordable Care Act, is amended by adding at the end the
following:
“(17) Fraud by applicable person.—An applicable person (as defined in section 1899D(a)(6)) that the Secretary determines knowingly submitted or caused to be submitted a claim for reimbursement under title XVIII that the applicable person knows or should know is false or fraudulent.”.

(c) Regulations; Effective Date.—

(1) Regulations.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendments made by subsections (a) and (b).

(2) Effective Date.—The amendments made by subsections (a) and (b) shall apply to applicable persons and other entities on and after the first day of the first year beginning after the date of the enactment of this Act.

SEC. 1603. EXPANDED ACCESS TO THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK (HIPDB).

(a) In General.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)), as amended by section 6403(a)(2) of the Patient Protection and Affordable Care Act, is amended to read as follows:
“(1) AVAILABILITY.—The information in the data bank maintained under this section shall be available to—

“(A) Federal and State government agencies and health plans, and any health care provider, supplier, or practitioner entering an employment or contractual relationship with an individual or entity who could potentially be the subject of a final adverse action, where the contract involves the furnishing of items or services reimbursed by one or more Federal health care programs (regardless of whether the individual or entity is paid by the programs directly, or whether the items or services are reimbursed directly or indirectly through the claims of a direct provider); and

“(B) utilization and quality control peer review organizations and accreditation entities as defined by the Secretary, including but not limited to organizations described in part B of this title and in section 1154(a)(4)(C).”.

(b) NO FEES FOR USE OF HIPDB BY ENTITIES CONTRACTING WITH MEDICARE.—Section 1128E(d)(2) of the Social Security Act (42 U.S.C. 1320a–7e(d)(2)), as amended by such section 6403(a)(2), is amended in the
first sentence by inserting "(other than with respect to requests by Federal agencies or other entities, such as fiscal intermediaries and carriers, acting under contract on behalf of such agencies)" before the period at the end.

(e) CRIMINAL PENALTY FOR MISUSE OF INFORMATION.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following:

"(4) Whoever knowingly uses information maintained in the healthcare integrity and protection data bank maintained in accordance with section 1128E for a purpose other than a purpose authorized under that section shall be imprisoned for not more than three years or fined under title 18, United States Code, or both."

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

SEC. 1604. LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) REIMBURSEMENT TO THE SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—Section 1874A(b) of the Social Security Act (42 U.S.C. 1395kk(b)) is amended by adding at the end the following new paragraph:
"(6) Reimbursements to Secretary for amounts paid to excluded providers.—The Secretary shall not enter into a contract with a Medicare administrative contractor under this section unless the contractor agrees to reimburse the Secretary for any amounts paid by the contractor for a service under this title which is furnished by an individual or entity during any period for which the individual or entity is excluded, pursuant to section 1128, 1128A, or 1156, from participation in the health care program under this title if the amounts are paid after the 60-day period beginning on the date the Secretary provides notice of the exclusion to the contractor, unless the payment was made as a result of incorrect information provided by the Secretary or the individual or entity excluded from participation has concealed or altered their identity."

(b) Conforming Repeal of Mandatory Payment Rule.—Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) is amended—

(1) in paragraph (1)(B), by striking "and when the person" and all that follows through "person);"; and

(2) by amending paragraph (2) to read as follows:
“(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No individual is liable for payment of any amounts billed for such an item or service in violation of the preceding sentence.”

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to claims for payment submitted on or after the date of the enactment of this Act.

(2) Contract modification.—The Secretary of Health and Human Services shall take such steps as may be necessary to modify contracts entered into, renewed, or extended prior to the date of the enactment of this Act to conform such contracts to the provisions of this section.

SEC. 1605. COMMUNITY MENTAL HEALTH CENTERS.

(a) In General.—Section 1861(ff)(3)(B) of the Social Security Act (42 U.S.C. 1395x(ff)(3)(B)), as amended by section 1301(a), is amended by striking “entity that—” and all that follows and inserting the following: “entity that—

“(i) provides the community mental health services specified in paragraph (1) of section 1913(c) of the Public Health Service Act;
“(ii) meets applicable certification or licensing requirements for community mental health centers in the State in which it is located;

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

“(iv) meets such additional standards or requirements for obtaining billing privileges under this title as the Secretary may specify to ensure—

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

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

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

SEC. 1606. LIMITING THE DISCHARGE OF DEBTS IN BANKRUPTCY PROCEEDINGS IN CASES WHERE A HEALTH CARE PROVIDER OR A SUPPLIER ENGAGES IN FRAUDULENT ACTIVITY.

(a) IN GENERAL.—

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

(2) Recovery of overpayment to pro-
viders of services under part A of Medi-
care.—Section 1815(d) of the Social Security Act
(42 U.S.C. 1395g(d)) is amended—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

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

(3) Recovery of overpayment of benefits
under part b of Medicare.—Section 1833(j) of
the Social Security Act (42 U.S.C. 1395l(j)) is
amended—

(A) by inserting "(1)" after "(j)"; and

(B) by adding at the end the following:

"(2) Notwithstanding any other provision of law,
amounts due to the Secretary under this section are not
1 dischargeable under section 727, 944, 1141, 1228, or
2 1328 of title 11, United States Code, or any other provi-
3 sion of such title if the overpayment was the result of
4 fraudulent activity, as may be defined by the Secretary.”.
5
6 (4) COLLECTION OF PAST-DUE OBLIGATIONS
7 ARISING FROM BREACH OF SCHOLARSHIP AND LOAN
8 CONTRACT.—Section 1892(a) of the Social Security
9 Act (42 U.S.C. 1395ccc(a)) is amended by adding at
10 the end the following:
11
12 "(5) Notwithstanding any other provision of
13 law, amounts due to the Secretary under this section
14 are not dischargeable under section 727, 944, 1141,
15 1228, or 1328 of title 11, United States Code, or
16 any other provision of such title.”.
17
18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall apply to bankruptcy petitions filed
20 after the date of the enactment of this Act.
21
22 SEC. 1607. ILLEGAL DISTRIBUTION OF A MEDICARE OR
23 MEDICAID BENEFICIARY IDENTIFICATION OR
24 BILLING PRIVILEGES.
25
26 Section 1128B(b) of the Social Security Act (42
27 U.S.C. 1320a–7b(b)), as amended by section 1603, is
28 amended by adding at the end the following:
29 "(5) Whoever knowingly, intentionally, and with the
30 intent to defraud purchases, sells or distributes, or ar-
ranges for the purchase, sale, or distribution of two or more Medicare or Medicaid beneficiary identification numbers or billing privileges under title XVIII or title XIX shall be imprisoned for not more than three years or fined under title 18, United States Code (or, if greater, an amount equal to the monetary loss to the Federal and any State government as a result of such acts), or both.”.

SEC. 1608. TREATMENT OF CERTAIN SOCIAL SECURITY ACT CRIMES AS FEDERAL HEALTH CARE OFFENSES.

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

(1) by striking the period at the end of paragraph (2) and inserting “; or”; and

(2) by adding at the end the following:

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to acts committed on or after the date of the enactment of this Act.
SEC. 1609. AUTHORITY OF OFFICE OF INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES.

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

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

(2) make an arrest without a warrant for—

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

(B) any felony offense against the United
States, if such investigator has reasonable cause
to believe that the person to be arrested has
committed or is committing that felony offense; and
(3) exercise any other authority necessary to carry out the authority described in paragraphs (1) and (2).

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

SEC. 1610. UNIVERSAL PRODUCT NUMBERS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) UPNs on Claims Forms for Reimbursement Under the Medicare Program.—

(1) ACCOMMODATION OF UPNs ON MEDICARE CLAIMS FORMS.—Not later than February 1, 2011, all claims forms developed or used by the Secretary of Health and Human Services for reimbursement under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)
shall accommodate the use of universal product
numbers for a UPN covered item.

(2) Requirement for payment of claims.—
Title XVIII of the Social Security Act (42 U.S.C.
1395 et seq.), as amended by sections 1601 and
1602, is amended by adding at the end the following
new section:

"Use of universal product numbers
Sec. 1899E. (a) In general.—No payment shall
be made under this title for any claim for reimbursement
for any UPN covered item unless the claim contains the
universal product number of the UPN covered item.

(b) Definitions.—In this section:

(1) UPN covered item.—

(A) In general.—Except as provided in
subparagraph (B), the term 'UPN covered
item' means—

(i) a covered item as that term is de-
defined in section 1834(a)(13);

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

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

(iv) any other item for which pay-
ment is made under this title that the Sec-
retary determines to be appropriate.
“(B) EXCLUSION.—The term ‘UPN covered item’ does not include a customized item for which payment is made under this title.

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

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

“(B) based on commercially acceptable identification standards such as, but not limited to, standards established by the Uniform Code Council-International Article Numbering System or the Health Industry Business Communication Council.”.

(3) DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES.—

(A) INFORMATION INCLUDED IN UPN.—

The Secretary of Health and Human Services, in consultation with manufacturers and entities with appropriate expertise, shall determine the relevant descriptive information appropriate for inclusion in a universal product number for a UPN covered item.
(B) Review of Procedure.—From the information obtained by the use of universal product numbers on claims for reimbursement under the Medicare program, the Secretary of Health and Human Services, in consultation with interested parties, shall periodically review the UPN covered items billed under the Health Care Financing Administration Common Procedure Coding System and adjust such coding system to ensure that functionally equivalent UPN covered items are billed and reimbursed under the same codes.

(4) Effective Date.—The amendment made by paragraph (2) shall apply to claims for reimbursement submitted on and after February 1, 2011.

(b) Study and Reports to Congress.—

(1) Study.—The Secretary of Health and Human Services shall conduct a study on the results of the implementation of the provisions in paragraphs (1) and (3) of subsection (a) and the amendment to the Social Security Act in paragraph (2) of such subsection.

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

(B) Implementation.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter for 3 years, the Secretary of Health and Human Services shall submit to Congress a report that contains a detailed description of the results of the study conducted pursuant to paragraph (1), together with the Secretary’s recommendations regarding the use of universal product numbers and the use of data obtained from the use of such numbers.

c) Definitions.—In this section:

(1) UPN Covered Item.—The term “UPN covered item” has the meaning given such term in section 1899E(b)(1) of the Social Security Act (as added by subsection (a)(2)).

(2) Universal Product Number.—The term “universal product number” has the meaning given
such term in section 1899E(b)(2) of the Social Security Act (as added by subsection (a)(2)).

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

SEC. 1611. USE OF TECHNOLOGY FOR REAL-TIME DATA REVIEW.

Part A of title XI of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by section 6703(b) of the Patient Protection and Affordable Care Act, is amended by adding at the end the following new section:

"SEC. 1150C. USE OF TECHNOLOGY FOR REAL TIME DATA REVIEW.

"(a) IN GENERAL.—The Secretary shall establish procedures for the use of technology (similar to that used with respect to the analysis of credit card charging patterns) to provide real-time data analysis of claims for payment under the Medicare, Medicaid, and SCHIP programs under title XVIII, XIX, and XXI to identify and investigate unusual billing or order practices under such programs that could indicate fraud or abuse."
“(b) COMPETITIVE BIDDING.—The procedures established under subsection (a) shall ensure that the implementation of such technology is conducted through a competitive bidding process.

“(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary, not to exceed $50,000,000 for each of fiscal years 2010 through 2014.

“(d) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report on the effectiveness of activities conducted under this section, including a description of any savings to the programs referred to in subsection (a) as a result of such activities and the overall administrative cost of such activities and a determination as to the amount of funding needed to carry out this section for subsequent fiscal years, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.”.

SEC. 1612. COMPREHENSIVE SANCTIONS DATABASE AND ACCESS TO CLAIMS AND PAYMENT DATABASES.

(a) COMPREHENSIVE SANCTIONS DATABASE.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a comprehensive sanctions database on sanctions imposed on
providers of services, suppliers, and related entities. Such
database shall be overseen by the Inspector General of the
Department of Health and Human Services and shall be
linked to related databases maintained by State licensure
boards and by Federal or State law enforcement agencies.
(b) ACCESS TO CLAIMS AND PAYMENT DATA-
bases.—The Secretary shall ensure that the Inspector
General of the Department of Health and Human Services
and Federal law enforcement agencies have direct access
to all claims and payment databases of the Secretary
under the Medicare or Medicaid programs.
(c) CIVIL MONEY PENALTIES FOR SUBMISSION OF
ERRONEOUS INFORMATION.—In the case of a provider of
services, supplier, or other entity that knowingly submits
erroneous information that serves as a basis for payment
of any entity under the Medicare or Medicaid program,
the Secretary may impose a civil money penalty of not to
exceed $50,000 for each such erroneous submission. A
civil money penalty under this subsection shall be imposed
and collected in the same manner as a civil money penalty
under subsection (a) of section 1128A of the Social Secu-
ry Act is imposed and collected under that section.