

Appendix C

Deficit Reduction Act of 2005

SEC. 6034. MEDICAID INTEGRITY PROGRAM.

(a) Establishment of Medicaid Integrity Program- Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended--

- (1) by redesignating section 1936 as section 1937; and
- (2) by inserting after section 1935 the following:

MEDICAID INTEGRITY PROGRAM

SEC. 1936. (a) In General- There is hereby established the Medicaid Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the program under this title by entering into contracts in accordance with this section with eligible entities to carry out the activities described in subsection (b).

(b) Activities Described- Activities described in this subsection are as follows:

(1) Review of the actions of individuals or entities furnishing items or services (whether on a fee-for-service, risk, or other basis) for which payment may be made under a State plan approved under this title (or under any waiver of such plan approved under section 1115) to determine whether fraud, waste, or abuse has occurred, is likely to occur, or whether such actions have any potential for resulting in an expenditure of funds under this title in a manner which is not intended under the provisions of this title.

(2) Audit of claims for payment for items or services furnished, or administrative services rendered, under a State plan under this title, including--

(A) cost reports;

(B) consulting contracts; and

(C) risk contracts under section 1903(m).

(3) Identification of overpayments to individuals or entities receiving Federal funds under this title.

(4) Education of providers of services, managed care entities, beneficiaries, and other individuals with respect to payment integrity and quality of care.

(c) Eligible Entity and Contracting Requirements-

(1) IN GENERAL- An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if the entity satisfies the requirements of paragraphs (2) and (3).

(2) ELIGIBILITY REQUIREMENTS- The requirements of this paragraph are the following:

(A) The entity has demonstrated capability to carry out the activities described in subsection (b).

`(B) In carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities.

`(C) The entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

`(D) The entity meets such other requirements as the Secretary may impose.

`(3) CONTRACTING REQUIREMENTS- The entity has contracted with the Secretary in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

`(A) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

`(B) Competitive procedures to be used--

`(i) when entering into new contracts under this section;

`(ii) when entering into contracts that may result in the elimination of responsibilities under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

`(iii) at any other time considered appropriate by the Secretary.

`(C) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

The Secretary may enter into such contracts without regard to final rules having been promulgated.

`(4) LIMITATION ON CONTRACTOR LIABILITY- The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

`(d) COMPREHENSIVE PLAN FOR PROGRAM INTEGRITY-

`(1) 5-YEAR PLAN- With respect to the 5-fiscal year period beginning with fiscal year 2006, and each such 5-fiscal year period that begins thereafter, the Secretary shall establish a comprehensive plan for ensuring the integrity of the program established under this title by combatting fraud, waste, and abuse.

`(2) CONSULTATION- Each 5-fiscal year plan established under paragraph (1) shall be developed by the Secretary in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, the Comptroller General of the United States, the Inspector General of the Department of Health and Human Services, and State officials with responsibility for controlling provider fraud and abuse under State plans under this title.

`(e) APPROPRIATION-

`(1) IN GENERAL- Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to carry out the Medicaid Integrity Program under this section, without further appropriation--

`(A) for fiscal year 2006, \$5,000,000;

`(B) for each of fiscal years 2007 and 2008, \$50,000,000; and

`(C) for each fiscal year thereafter, \$75,000,000.

`(2) AVAILABILITY- Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

`(3) INCREASE IN CMS STAFFING DEVOTED TO PROTECTING MEDICAID PROGRAM INTEGRITY- From the amounts appropriated under paragraph (1), the Secretary shall increase by 100 the number of full-time equivalent employees whose duties consist solely of protecting the integrity of the Medicaid program established under this section by providing effective support and assistance to States to combat provider fraud and abuse.

`(4) ANNUAL REPORT- Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Secretary shall submit a report to Congress which identifies--

`(A) the use of funds appropriated pursuant to paragraph (1); and

`(B) the effectiveness of the use of such funds.'

(b) STATE REQUIREMENT TO COOPERATE WITH INTEGRITY PROGRAM EFFORTS- Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 6033(a), is amended--

(1) in paragraph (67), by striking `and' at the end;

(2) in paragraph (68), by striking the period at the end and inserting `; and'; and

(3) by inserting after paragraph (68), the following:

`(69) provide that the State must comply with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936.'

(c) INCREASED FUNDING FOR MEDICAID FRAUD AND ABUSE CONTROL ACTIVITIES-

(1) IN GENERAL- Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of Health and Human Services, without further appropriation, \$25,000,000 for each of fiscal years 2006 through 2010, for activities of such Office with respect to the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) AVAILABILITY; AMOUNTS IN ADDITION TO OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVITIES- Amounts appropriated pursuant to paragraph (1) shall--

(A) remain available until expended; and

(B) be in addition to any other amounts appropriated or made available to the Office of the Inspector General of the Department of Health and Human Services for activities of such Office with respect to the Medicaid program.

(3) ANNUAL REPORT- Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Inspector General of the Department

of Health and Human Services shall submit a report to Congress which identifies--

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

(d) NATIONAL EXPANSION OF THE MEDICARE-MEDICAID (MEDI-MEDI) Data Match Pilot Program-

(1) REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM-

Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended--

(A) in subsection (b), by adding at the end the following:

`(6) The Medicare-Medicaid Data Match Program in accordance with subsection (g).'; and

(B) by adding at the end the following:

`(g) MEDICARE-MEDICAID DATA MATCH PROGRAM-

`(1) EXPANSION OF PROGRAM-

`(A) IN GENERAL- The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid Data Match Program (commonly referred to as the `Medi-Medi Program') is conducted with respect to the program established under this title and State Medicaid programs under title XIX for the purpose of--

`(i) identifying program vulnerabilities in the program established under this title and the Medicaid program established under title XIX through the use of computer algorithms to look for payment anomalies (including billing or billing patterns identified with respect to service, time, or patient that appear to be suspect or otherwise implausible);

`(ii) working with States, the Attorney General, and the Inspector General of the Department of Health and Human Services to coordinate appropriate actions to protect the Federal and State share of expenditures under the Medicaid program under title XIX, as well as the program established under this title; and

`(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

`(B) REPORTING REQUIREMENTS- The Secretary shall make available in a timely manner any data and statistical information collected by the Medi-Medi Program to the Attorney General, the Director of the Federal Bureau of Investigation, the Inspector General of the Department of Health and Human Services, and the States (including a Medicaid fraud and abuse control unit described in section 1903(q)). Such information shall be disseminated no less frequently than quarterly.

`(2) LIMITED WAIVER AUTHORITY- The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).'

(2) FUNDING- Section 1817(k)(4) of such Act (42 U.S.C. 1395i(k)(4)), as amended by section 5204 of this Act, is amended--

(A) in subparagraph (A), by striking `subparagraph (B)' and inserting `subparagraphs (B), (C), and (D)'; and

(B) by adding at the end the following:

`(D) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM- The amount appropriated under subparagraph (A) for a fiscal year is further increased as follows for purposes of carrying out section 1893(b)(6) for the respective fiscal year:

`(i) \$12,000,000 for fiscal year 2006.

`(ii) \$24,000,000 for fiscal year 2007.

`(iii) \$36,000,000 for fiscal year 2008.

`(iv) \$48,000,000 for fiscal year 2009.

`(v) \$60,000,000 for fiscal year 2010 and each fiscal year thereafter.'.

(e) DELAYED EFFECTIVE DATE FOR CHAPTER- Except as otherwise provided in this chapter, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this chapter, the State plan shall not be regarded as failing to comply with the requirements of such Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.