

107TH CONGRESS
2^D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. BAUCUS (for himself and Mr. GRASSLEY) introduced the following bill;
which was read twice and referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under 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; AMENDMENTS TO SOCIAL SECU-**
4 **RITY ACT; REFERENCES TO BIPA AND SEC-**
5 **RETARY; TABLE OF CONTENTS.**

6 (a) SHORT TITLE.—This Act may be cited as the
7 “Beneficiary Access to Care and Medicare Equity Act of
8 2002”.

9 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
10 cept as otherwise specifically provided, whenever in this

1 Act an amendment is expressed in terms of an amendment
 2 to or repeal of a section or other provision, the reference
 3 shall be considered to be made to that section or other
 4 provision of the Social Security Act.

5 (c) BIPA; SECRETARY.—In this Act:

6 (1) BIPA.—The term “BIPA” means the
 7 Medicare, Medicaid, and SCHIP Benefits Improve-
 8 ment and Protection Act of 2000, as enacted into
 9 law by section 1(a)(6) of Public Law 106–554.

10 (2) SECRETARY.—The term “Secretary” means
 11 the Secretary of Health and Human Services.

12 (d) TABLE OF CONTENTS.—The table of contents of
 13 this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BIPA and Secretary; table of contents.

TITLE I—RURAL HEALTH CARE IMPROVEMENTS

Sec. 101. Equalizing urban and rural standardized payment amounts under the medicare inpatient hospital prospective payment system.

Sec. 102. Adjustment to wage index.

Sec. 103. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.

Sec. 104. One-year extension of hold harmless provisions for small rural hospitals under medicare prospective payment system for hospital outpatient department services.

Sec. 105. Temporary increase in payments for certain services furnished by small rural hospitals under medicare prospective payment system for hospital outpatient department services.

Sec. 106. Two-year treatment of certain clinical diagnostic laboratory tests furnished by a sole community hospital.

Sec. 107. Improvements to critical access hospital program.

Sec. 108. Temporary relief for certain non-teaching hospitals.

Sec. 109. Physician fee schedule geographic adjustment factor revision.

Sec. 110. Medicare incentive payment program improvements.

Sec. 111. GAO study of geographic differences in payments for physicians' services.

Sec. 112. Extension of temporary increase for home health services furnished in a rural area.

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- Sec. 113. Ten percent increase in payment for hospice care furnished in a frontier area.
- Sec. 114. Exclusion of certain rural health clinic and Federally qualified health center services from the medicare PPS for skilled nursing facilities.
- Sec. 115. Capital infrastructure revolving loan program.

TITLE II—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

- Sec. 201. Revision of acute care hospital payment updates.
- Sec. 202. More frequent updates in weights used in hospital market basket.
- Sec. 203. Three-year increase in level of adjustment for indirect costs of medical education (IME).
- Sec. 204. Revision of Federal rate for hospitals in Puerto Rico.
- Sec. 205. Increase in graduate medical education limitations for certain geriatric residents.
- Sec. 206. Increase for hospitals with disproportionate indigent care revenues.

Subtitle B—Skilled Nursing Facility Services

- Sec. 211. Payment for covered skilled nursing facility services.
- Sec. 212. Improving the availability of nursing facility staffing information.

Subtitle C—Hospice

- Sec. 221. Coverage of hospice consultation services.
- Sec. 222. Authorizing use of arrangements with other hospice programs to provide core hospice services in certain circumstances.

TITLE III—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

- Sec. 301. Revision of updates for physicians' services.
- Sec. 302. Three-year extension of treatment of certain physician pathology services under medicare.

Subtitle B—Other Services

- Sec. 311. Competitive acquisition of certain items and services.
- Sec. 312. Two-year extension of moratorium on therapy caps; provisions relating to reports.
- Sec. 313. Acceleration of reduction of beneficiary copayment for hospital outpatient department services.
- Sec. 314. Renal dialysis services.
- Sec. 315. Improved payment for certain mammography services.
- Sec. 316. Waiver of part B late enrollment penalty for certain military retirees; special enrollment period.
- Sec. 317. Coverage of cholesterol and blood lipid screening.
- Sec. 318. Temporary increase for ground ambulance services.
- Sec. 319. Ensuring appropriate coverage of air ambulance services under ambulance fee schedule.
- Sec. 320. Adjustments to local fee schedules for clinical laboratory tests for improvement in cervical cancer detection.
- Sec. 321. Coverage of immunosuppressive drugs for all medicare beneficiaries.
- Sec. 322. Medicare complex clinical care management payment demonstration.

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- Sec. 323. Study and report on new technology payments under the prospective payment system for hospital outpatient department services.

TITLE IV—PROVISION RELATING TO PARTS A AND B

Subtitle A—Home Health Services

- Sec. 401. Elimination of 15 percent reduction in payment rates under the prospective payment system.
- Sec. 402. Update in home health services.

Subtitle B—Other Provisions

- Sec. 411. Information technology demonstration project.
- Sec. 412. Modifications to Medicare Payment Advisory Commission (MedPAC).
- Sec. 413. Retaining diversity of local coverage determinations.

TITLE V—MEDICARE+CHOICE AND RELATED PROVISIONS

- Sec. 501. Revision in minimum percentage increase for 2003 and 2004.
- Sec. 502. Clarification of authority regarding disapproval of unreasonable beneficiary cost-sharing.
- Sec. 503. Extension of reasonable cost contracts.
- Sec. 504. Extension of social health maintenance organization (SHMO) demonstration project.
- Sec. 505. Specialized Medicare+Choice plans for special needs beneficiaries.
- Sec. 506. Extension of new entry bonus.
- Sec. 507. Payment by PACE providers for medicare and medicaid services furnished by noncontract providers.
- Sec. 508. Reference to implementation of certain Medicare+Choice program provisions in 2003.

TITLE VI—MEDICARE APPEALS, REGULATORY, AND CONTRACTING IMPROVEMENTS

Subtitle A—Regulatory Reform

- Sec. 601. Rules for the publication of a final regulation based on the previous publication of an interim final regulation.
- Sec. 602. Compliance with changes in regulations and policies.
- Sec. 603. Report on legal and regulatory inconsistencies.

Subtitle B—Appeals Process Reform

- Sec. 611. Submission of plan for transfer of responsibility for medicare appeals.
- Sec. 612. Expedited access to judicial review.
- Sec. 613. Expedited review of certain provider agreement determinations.
- Sec. 614. Revisions to medicare appeals process.
- Sec. 615. Hearing rights related to decisions by the Secretary to deny or not renew a medicare enrollment agreement; consultation before changing provider enrollment forms.
- Sec. 616. Appeals by providers when there is no other party available.
- Sec. 617. Provider access to review of local coverage determinations.

Subtitle C—Contracting Reform

- Sec. 621. Increased flexibility in medicare administration.

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Subtitle D—Education and Outreach Improvements

- Sec. 631. Provider education and technical assistance.
- Sec. 632. Access to and prompt responses from medicare contractors.
- Sec. 633. Reliance on guidance.
- Sec. 634. Medicare provider ombudsman; medicare beneficiary ombudsman.
- Sec. 635. Beneficiary outreach demonstration program.

Subtitle E—Review, Recovery, and Enforcement Reform

- Sec. 641. Prepayment review.
- Sec. 642. Recovery of overpayments.
- Sec. 643. Process for correction of minor errors and omissions on claims without pursuing appeals process.
- Sec. 644. Authority to waive a program exclusion.

TITLE VII—MEDICAID/SCHIP

- Sec. 701. Medicaid DSH allotments.
- Sec. 702. Temporary increase in floor for treatment as an extremely low DSH State.
- Sec. 703. Extension of medicare cost-sharing for part B premium for certain additional low-income medicare beneficiaries.
- Sec. 704. Clarification of inclusion of inpatient drug prices charged to certain public hospitals in the best price exemptions for the medicaid drug rebate program.
- Sec. 705. SCHIP allotments.
- Sec. 706. Improvement of the process for the development and implementation of medicaid and SCHIP waivers.
- Sec. 707. Temporary State fiscal relief.

TITLE VIII—OTHER PROVISIONS

- Sec. 801. Increase in appropriations for special diabetes programs for type I diabetes and Indians.
- Sec. 802. Disregard of certain payments under the Emergency Supplemental Act, 2000 in the administration of Federal programs and federally assisted programs.
- Sec. 803. Safety Net Organizations and Patient Advisory Commission.
- Sec. 804. Publication on final written guidance concerning prohibitions against discrimination by national origin with respect to health care services.
- Sec. 805. Federal reimbursement of emergency health services furnished to undocumented aliens.
- Sec. 806. Extension of medicare municipal health services demonstration projects.
- Sec. 807. Delayed implementation of certain provisions.

1 the study conducted under paragraph (1). The re-
 2 port shall include a determination whether—

3 (A) data from claims submitted by physi-
 4 cians under part B of the medicare program in-
 5 dicate potential access problems for medicare
 6 beneficiaries in certain geographic areas; and

7 (B) access by medicare beneficiaries to
 8 physicians' services may have improved, re-
 9 mained constant, or deteriorated over time.

10 **SEC. 302. THREE-YEAR EXTENSION OF TREATMENT OF CER-**
 11 **TAIN PHYSICIAN PATHOLOGY SERVICES**
 12 **UNDER MEDICARE.**

13 Section 542(c) of BIPA (114 Stat. 2763A–550) is
 14 amended by striking “2-year period” and inserting “5-
 15 year period”.

16 **Subtitle B—Other Services**

17 **SEC. 311. COMPETITIVE ACQUISITION OF CERTAIN ITEMS**
 18 **AND SERVICES.**

19 (a) PROGRAM AUTHORIZED.—Title XVIII (42 U.S.C.
 20 1395 et seq.) is amended by redesignating section 1866B
 21 as section 1866C and by inserting after section 1866A the
 22 following new section:

23 “COMPETITIVE ITEM AND SERVICE ACQUISITION
 24 PROGRAM

25 “SEC. 1866B. (a) PROGRAM AUTHORITY.—

1 “(1) IN GENERAL.—The Secretary shall imple-
2 ment programs and demonstration projects to pur-
3 chase, on behalf of individuals enrolled under part
4 B, certain competitively priced items and services in
5 competitive acquisition areas (in accordance with the
6 succeeding provisions of this section) for which pay-
7 ment is made under such part. Such areas may dif-
8 fer in the items and services provided.

9 “(2) RULES APPLICABLE TO PROGRAMS AND
10 DEMONSTRATION PROJECTS.—With respect to each
11 program and demonstration project implemented
12 under this section, the following rules shall apply:

13 “(A) The Secretary may reject unreason-
14 ably low bids.

15 “(B) If the Secretary determines that the
16 product quality or service quality of an entity
17 with a contract has deteriorated since the con-
18 tract was entered into, the Secretary may can-
19 cel the contract prior to the date on which the
20 contract is scheduled to end and award a con-
21 tract to a different entity for the remainder of
22 the term of the contract.

23 “(C) No device that is in a class of devices
24 described in section 513(a)(1)(C) of the Federal
25 Food Drug and Cosmetic Act (21 U.S.C.

1 360c(a)(1)(C)) may be furnished under such a
2 program or demonstration project.

3 “(3) PHASED-IN IMPLEMENTATION.—The pro-
4 grams implemented under paragraph (1) shall be
5 phased-in among competitive acquisition areas over
6 a period of not longer than 4 years in a manner so
7 that the competition under the programs occurs in—

8 “(A) at least $\frac{1}{4}$ of such areas in 2003;

9 “(B) at least $\frac{2}{4}$ of such areas in 2004;

10 and

11 “(C) at least $\frac{3}{4}$ of such areas in 2005.

12 “(b) IMPLEMENTATION OF PROGRAMS IN COMPETI-
13 TIVE ACQUISITION AREAS.—

14 “(1) TYPES OF PROGRAMS.—The Secretary
15 shall implement programs under which competitive
16 acquisition areas are established for contract award
17 purposes for the furnishing under part B of—

18 “(A) covered items (as defined in section
19 1834(a)(13)) and inhalation drugs used in con-
20 junction with durable medical equipment (other
21 than items used in infusion therapy); and

22 “(B) leg, arm, back, and neck braces de-
23 scribed in section 1861(s)(9), other than cus-
24 tom fabricated orthotics (as defined by the Sec-
25 retary).

1 “(2) PROGRAM REQUIREMENTS.—Each pro-
2 gram implemented under paragraph (1) shall—

3 “(A) include such categories of items and
4 services as the Secretary may prescribe; and

5 “(B) be conducted in such competitive ac-
6 quisition areas as the Secretary determines are
7 appropriate.

8 “(3) CRITERIA FOR ESTABLISHMENT OF COM-
9 PETITIVE ACQUISITION AREAS.—Each competitive
10 acquisition area established under a program imple-
11 mented under paragraph (1) shall—

12 “(A)(i) be, or shall be within, a metropoli-
13 tan statistical area (as defined by the Director
14 of the Office of Management and Budget and
15 the Secretary of Commerce) with a population
16 in excess of 500,000; or

17 “(ii) be an area that was designated as a
18 competitive acquisition area under section 1847
19 as of the date of the enactment of the Bene-
20 ficiary Access to Care and Medicare Equity Act
21 of 2002;

22 “(B) be chosen based on the availability
23 and accessibility of entities able to furnish
24 items and services, and the probable savings to
25 be realized by the use of competitive bidding in

1 the furnishing of items and services in such
2 area; and

3 “(C) have multiple suppliers for each prod-
4 uct category.

5 “(c) AWARDING OF CONTRACTS IN COMPETITIVE AC-
6 QUISSION AREAS.—

7 “(1) IN GENERAL.—The Secretary shall con-
8 duct a competition among entities supplying the
9 items and services to be furnished under the pro-
10 gram implemented under subsection (b)(1) for each
11 competitive acquisition area established under sub-
12 section (b)(3) for that program.

13 “(2) ADMINISTRATION BY CONTRACT.—

14 “(A) IN GENERAL.—The Secretary shall
15 administer the programs under this section by
16 entering into contracts with entities.

17 “(B) CONDITIONS FOR AWARDING CON-
18 TRACT.—The Secretary may not award a con-
19 tract to any entity under the competition con-
20 ducted under paragraph (1) to furnish an item
21 or service unless the Secretary finds that—

22 “(i) the entity meets quality and fi-
23 nancial standards specified by the Sec-
24 retary or developed by accreditation enti-

1 ties or organizations recognized by the Sec-
2 retary;

3 “(ii) beneficiary liability is limited to
4 the applicable percentage of the contract
5 award price;

6 “(iii) the entity has an agreement in
7 effect under section 1866 and has an ac-
8 tive National Supplier Clearinghouse iden-
9 tification number;

10 “(iv) the entity complies with all Fed-
11 eral and State licensure and regulatory re-
12 quirements;

13 “(v) the entity is in compliance with
14 all the provisions of title XI and this title,
15 such provisions of title XIX as the Sec-
16 retary determines are relevant to competi-
17 tive bidding, and any regulations relating
18 thereto;

19 “(vi) the entity is in compliance with
20 all billing guidelines relating to the pro-
21 gram under this title;

22 “(vii) the entity has not been sus-
23 pended within the 12 months preceding the
24 date on which a bid is submitted by any

1 DMERC antifraud unit for billing for
2 items or services not furnished; and

3 “(viii) the total amounts to be paid
4 under the contract (including costs associ-
5 ated with the administration of the con-
6 tract) are expected to be less than the total
7 amounts that would otherwise be paid.

8 “(3) CONTENTS OF CONTRACT.—A contract en-
9 tered into with an entity under the competition con-
10 ducted under paragraph (1) shall be subject to such
11 terms and conditions as the Secretary may specify.

12 “(4) LIMIT ON NUMBER OF CONTRACTORS.—
13 The Secretary may limit the number of contractors
14 in a competitive acquisition area to the number
15 needed to meet projected demand for items and serv-
16 ices covered under the contracts.

17 “(5) SMALL BUSINESS PROTECTIONS.—Not-
18 withstanding any other provision of this section, the
19 Secretary shall allow—

20 “(A) an entity to bid to become a supplier
21 in a portion of the competitive acquisition area
22 if the entity does not have the capacity to serv-
23 ices an entire competitive acquisition area;

1 “(B) small suppliers to bid for only 1 or a
2 few product categories instead of all the prod-
3 ucts in a competitive acquisition area; and

4 “(C) small suppliers to join together to
5 form networks for bidding purposes, as long as
6 the combined market share of such suppliers
7 does not exceed 25 percent.

8 “(d) EVALUATIONS AND ANNUAL REPORTS.—

9 “(1) EVALUATIONS.—The Secretary shall evalu-
10 ate the impact of the implementation of the pro-
11 grams implemented under subsection (b)(1) on—

12 “(A) payments made and savings realized
13 under this title;

14 “(B) the access of beneficiaries to items
15 and services furnished under such programs
16 and demonstration projects;

17 “(C) the diversity of product selection
18 under such programs and demonstration
19 projects; and

20 “(D) the quality of items and services fur-
21 nished under such programs and demonstration
22 projects.

23 “(2) ANNUAL REPORTS.—Not less frequently
24 than annually, the Secretary shall submit to the
25 Committees on Ways and Means and Energy and

1 Commerce of the House of Representatives and the
2 Committee on Finance of the Senate a report on the
3 results of the evaluation conducted under paragraph
4 (1).

5 “(e) DIAGNOSTIC TESTS AND SURGICAL
6 DRESSINGS.—

7 “(1) IN GENERAL.—The Secretary shall imple-
8 ment demonstration projects under which competi-
9 tive acquisition areas are established for contract
10 award purposes for the furnishing under part B of—

11 “(A) diagnostic x-ray tests, clinical diag-
12 nostic laboratory tests, and other diagnostic
13 tests described in paragraph (3) of section
14 1861(s); and

15 “(B) surgical dressings, splints, casts, and
16 other devices described in paragraph (5) of such
17 section.

18 “(2) PROJECT REQUIREMENTS.—Each dem-
19 onstration project under paragraph (1) shall—

20 “(A) be conducted in not more than 3
21 competitive acquisition areas;

22 “(B) be operated over a 3-year period; and

23 “(C) otherwise be subject to the conditions
24 under subsections (b)(3) and (c) in the same

1 manner as such conditions apply to the pro-
2 grams established under subsection (a).

3 “(3) REPORTS.—

4 “(A) INITIAL REPORT.—Not later than
5 December 31, 2004, the Secretary shall submit
6 to the Committees on Ways and Means and En-
7 ergy and Commerce of the House of Represent-
8 atives and the Committee on Finance of the
9 Senate an initial report on the demonstration
10 projects conducted under this subsection.

11 “(B) PROGRESS AND FINAL REPORTS.—
12 The Secretary shall submit such progress and
13 final reports to the committees described in
14 subparagraph (A) after the date described in
15 such subparagraph as the Secretary determines
16 appropriate.

17 “(f) OTHER PART B ITEMS AND SERVICES.—

18 “(1) IN GENERAL.—The Secretary may imple-
19 ment not more than 5 demonstration projects under
20 which competitive acquisition areas are established
21 for contract award purposes for the furnishing under
22 part B of any item or service covered under such
23 part that the Secretary may specify other than—

24 “(A) any item or service described in sub-
25 paragraph (A) or (B) of subsection (e)(1); or

1 “(B) physicians’ services (as defined in
2 section 1861(r)(1)).

3 “(2) PROJECT REQUIREMENTS.—Each dem-
4 onstration project under paragraph (1) shall—

5 “(A) be conducted in not more than 3
6 competitive acquisition areas;

7 “(B) be operated over a 3-year period; and

8 “(C) otherwise be subject to the conditions
9 under subsections (b)(3) and (c) in the same
10 manner as such conditions apply to the pro-
11 grams established under subsection (a).

12 “(3) REPORTS.—

13 “(A) INITIAL REPORT.—Not later than
14 December 31, 2004, the Secretary shall submit
15 to the Committees on Ways and Means and En-
16 ergy and Commerce of the House of Represent-
17 atives and the Committee on Finance of the
18 Senate an initial report on the demonstration
19 projects conducted under this subsection.

20 “(B) PROGRESS AND FINAL REPORTS.—
21 The Secretary shall submit such progress and
22 final reports to the committees described in
23 subparagraph (A) after the date described in
24 such subparagraph as the Secretary determines
25 appropriate.

1 “(g) EXPANSION OF PROGRAMS AND DEMONSTRA-
2 TION PROJECTS.—The Secretary may expand a program
3 or demonstration project implemented under subsection
4 (b)(1) to additional competitive acquisition areas if the
5 Secretary determines, based on the evaluations conducted
6 under subsection (d)(1), that there is clear evidence that
7 any program or demonstration project—

8 “(1) results in a decrease in Federal expendi-
9 tures under this title; and

10 “(2) does not reduce program access, diversity
11 of product selection, and quality under this title.

12 “(h) DURATION OF PROGRAMS AND DEMONSTRA-
13 TION PROJECTS.—

14 “(1) DURABLE MEDICAL EQUIPMENT AND
15 ORTHOTICS.—The programs implemented under sub-
16 paragraph (A) or (B) of subsection (b)(1) shall ter-
17minate on such date as the Secretary may specify or
18 may continue indefinitely (as determined by the Sec-
19retary).

20 “(2) DIAGNOSTIC TESTS AND SURGICAL
21 DRESSINGS.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), any demonstration project
24 implemented under subsection (e)(1) shall ter-
25minate not later than December 31, 2007.

1 “(B) EXCEPTION.—If the Secretary deter-
2 mines that a demonstration project imple-
3 mented under subsection (e)(1) meets the re-
4 quirements of paragraphs (1) and (2) of sub-
5 section (g), such project shall terminate on such
6 date as the Secretary may specify or may con-
7 tinue indefinitely (as determined by the Sec-
8 retary).

9 “(3) OTHER PART B ITEMS AND SERVICES.—
10 Any demonstration project implemented under sub-
11 section (f)(1) shall terminate not later than Decem-
12 ber 31, 2007.”.

13 (b) CONTINUATION OF ORIGINAL DEMONSTRATION
14 PROJECTS.—Section 1847(e) (42 U.S.C. 1395w-3(e)) is
15 amended to read as follows:

16 “(e) TERMINATION.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of this section, except as provided in para-
19 graph (2), all projects under this section shall termi-
20 nate not later than December 31, 2002.

21 “(2) EXTENSION OF CERTAIN PROJECTS.—An
22 project implemented under this section as of the
23 date of enactment of the Beneficiary Access to Care
24 and Medicare Equity Act of 2002 shall continue
25 under the same terms and conditions applicable

1 under this section until such time as the competitive
2 acquisition area under such a project is designated
3 as a competitive acquisition area for purposes of sec-
4 tion 1866B, except that no project may continue
5 under this section after December 31, 2006.”.

6 (c) ITEMS AND SERVICES TO BE FURNISHED ONLY
7 THROUGH COMPETITIVE ACQUISITION.—Section 1862(a)
8 (42 U.S.C. 1395y(a)), as amended by section 3(a) of the
9 Administrative Simplification Compliance Act (Public Law
10 107–105; 115 Stat. 1006), is amended—

11 (1) by striking “or” at the end of paragraph
12 (21);

13 (2) by striking the period at the end of para-
14 graph (22) and inserting “; or”; and

15 (3) by inserting after paragraph (22) the fol-
16 lowing new paragraph:

17 “(23) except in such cases of emergency or ur-
18 gent need as the Secretary shall prescribe, where the
19 expenses are for an item or service described in sec-
20 tion 1866B(d) that is furnished in a competitive ac-
21 quisition area (as established by the Secretary under
22 section 1866B(b)) by an entity other than an entity
23 with which the Secretary has entered into an agree-
24 ment under section 1866B(c) for the furnishing of
25 such an item or service in that area.”.

1 (d) CONFORMING AMENDMENTS RELATING TO GEN-
2 ERAL PROVISIONS FOR ADMINISTRATION.—

3 (1) GENERAL ADMINISTRATIVE AUTHORITY.—

4 Section 1866C(a) (as redesignated by subsection
5 (a)) is amended—

6 (A) in paragraph (1)—

7 (i) in the matter preceding subpara-
8 graph (A), by striking “the program under
9 section 1866A (in this section referred to
10 as the ‘demonstration program’)” and in-
11 sserting “a program or demonstration
12 project under section 1866A or 1866B”;

13 (ii) in subparagraph (A), by striking
14 “and entitled to benefits under part A;
15 and” and inserting a semicolon;

16 (iii) in subparagraph (B), by striking
17 the period at the end and inserting “;
18 and”; and

19 (iv) by adding at the end the following
20 new subparagraph:

21 “(C) in the case of the demonstration pro-
22 gram under section 1866A, is entitled to bene-
23 fits under part A.”;

24 (B) in paragraph (3), by striking “Items
25 and services shall” and inserting “Except as

1 provided in the authority for the programs and
2 demonstration projects under section 1866B,
3 items and services shall”;

4 (C) in paragraph (4), by striking “individ-
5 uals or entities” and inserting “entities (or, in
6 the case of the demonstration program under
7 section 1866A, individuals or entities)”;

8 (D) in paragraph (5)—

9 (i) in the first sentence, by striking
10 “the demonstration program” and insert-
11 ing “the programs and demonstration
12 projects under sections 1866A and
13 1866B”; and

14 (ii) in the second sentence, by striking
15 “individuals or entities” and inserting “en-
16 tities (or, in the case of the demonstration
17 program under section 1866A, individuals
18 or entities)”;

19 (E) in paragraph (6)—

20 (i) by striking “individual or entity”
21 and inserting “entity (or, in the case of the
22 demonstration program under section
23 1866A, an individual or entity)”;

24 (ii) by striking “the demonstration
25 program” and inserting “the programs and

1 demonstration projects under sections
2 1866A and 1866B”;

3 (F) in paragraph (7), by striking “indi-
4 vidual or entity” each place it appears and in-
5 serting “entity (or, in the case of the dem-
6 onstration program under section 1866A, an in-
7 dividual or entity)”;

8 (G) in paragraph (8)—

9 (i) in subparagraph (A), by striking
10 “the demonstration program” and insert-
11 ing “the programs and demonstration
12 projects under sections 1866A and
13 1866B”; and

14 (ii) in subparagraph (B), by striking
15 “individual or entity” and inserting “entity
16 (or, in the case of the demonstration pro-
17 gram under section 1866A, an individual
18 or entity)”.

19 (2) CONTRACTS FOR PROGRAM ADMINISTRA-
20 TION.—Section 1866C(b) (as so redesignated) is
21 amended—

22 (A) in paragraph (1), by striking “the
23 demonstration program” and inserting “the
24 programs and demonstration projects under
25 sections 1866A and 1866B”;

1 (B) in paragraph (2), by striking “CON-
2 TRACTS.—The Secretary” and inserting the fol-
3 lowing: “CONTRACTS.—A contract under this
4 subsection may, at the Secretary’s discretion,
5 relate to the administration of either the pro-
6 gram under section 1866A or a program or
7 demonstration project under section 1866B, or
8 both. The Secretary”; and

9 (C) in paragraph (7)—

10 (i) in subparagraph (D), by inserting
11 “under section 1866A” before the period
12 at the end;

13 (ii) by redesignating subparagraphs
14 (E) through (H) as subparagraphs (G)
15 through (J), respectively; and

16 (iii) by inserting after subparagraph
17 (D) the following new subparagraphs:

18 “(E) LIST OF PROGRAM PARTICIPANTS.—
19 Maintain and regularly update a list of entities
20 with agreements to provide health care items
21 and services under the program under section
22 1866B, and ensure that such list, in electronic
23 and hard copy formats, is readily available, as
24 applicable, to—

1 “(i) individuals residing in the service
2 area who are entitled to benefits under
3 part A or enrolled in the program under
4 part B;

5 “(ii) the entities responsible under
6 sections 1816 and 1842 for administering
7 payments for health care items and serv-
8 ices furnished; and

9 “(iii) entities providing health care
10 items and services in the service area.

11 “(F) BENEFICIARY ENROLLMENT.—Deter-
12 mine eligibility of individuals to enroll under a
13 program or demonstration project under section
14 1866B and provide enrollment-related services
15 (but only if the Secretary finds that the pro-
16 gram administrator has no conflict of interest
17 caused by a financial relationship with any enti-
18 ty furnishing items or services for which pay-
19 ment may be made under any such program, or
20 any other conflict of interest with respect to
21 such function).”.

22 (3) RULES APPLICABLE TO BOTH PROGRAM
23 AGREEMENTS AND PROGRAM ADMINISTRATION CON-
24 TRACTS.—Section 1866C(c) (as so redesignated) is
25 amended—

1 (A) in paragraph (1), by striking “the
2 demonstration program” and inserting “the
3 programs and demonstration projects under
4 sections 1866A and 1866B”;

5 (B) in paragraph (2)—

6 (i) in the matter preceding subpara-
7 graph (A), by inserting “under section
8 1866A” after “the demonstration pro-
9 gram”;

10 (ii) in subparagraph (A), by striking
11 “the program” and inserting “such a pro-
12 gram”; and

13 (iii) in subparagraph (B)(i), by insert-
14 ing “under section 1866A” after “the dem-
15 onstration program”; and

16 (C) in paragraph (3)—

17 (i) by striking “the demonstration
18 program” and inserting “the programs and
19 demonstration projects under sections
20 1866A and 1866B”; and

21 (ii) by striking “administer the pro-
22 gram” and inserting “administer such a
23 program or project”.

24 (4) LIMITATIONS ON JUDICIAL REVIEW.—Sec-
25 tion 1866C(d) (as so redesignated) is amended—

1 (A) in the matter preceding paragraph (1),
2 by striking “the demonstration program” and
3 inserting “the programs and demonstration
4 projects under sections 1866A and 1866B” in
5 the matter preceding subparagraph (A);

6 (B) in paragraph (1), by striking “the pro-
7 gram” and inserting “a program or demonstra-
8 tion project under section 1866A or 1866B”;

9 (C) in paragraph (2), by striking “pro-
10 gram” each place it appears and inserting “pro-
11 gram or demonstration project”; and

12 (D) in paragraph (5)—

13 (i) in the matter preceding subpara-
14 graph (A), by striking “to the program”
15 and inserting “to a program or demonstra-
16 tion project”;

17 (ii) in subparagraph (A), by striking
18 “or” after the semicolon at the end; and

19 (iii) in subparagraph (B), by inserting
20 “with respect to the demonstration pro-
21 gram under section 1866A,” before “as to
22 whether”.

23 (5) APPLICATION LIMITED TO PARTS A AND
24 B.—Section 1866C(e) (as so redesignated) is amend-

1 ed by striking “or of the demonstration program”
2 and inserting “, section 1866A, or section 1866B”.

3 (6) OTHER CONFORMING AMENDMENTS.—

4 (A) Section 1866A(a)(2) (42 U.S.C.
5 1395cc–1) is amended by striking “section
6 1866B” and inserting “section 1866C”.

7 (B) The heading of section 1866C (as so
8 redesignated) is amended to read as follows:

9 “GENERAL PROVISIONS FOR THE ADMINISTRATION OF
10 CERTAIN PRIVATE SECTOR PURCHASING AND QUALITY
11 IMPROVEMENT PROGRAMS”.

12 (e) GAO STUDY AND REPORT.—

13 (1) STUDY.—The Comptroller General of the
14 United States shall conduct a study on the coverage
15 under the medicare program under title XVIII of the
16 Social Security Act of new and innovative durable
17 medical equipment, prosthetics, orthotics, supplies,
18 and equipment and the coding of such items for pur-
19 poses of payment under such program. Such study
20 shall include an analysis of the review and approval
21 process for the new and innovative items described
22 in the preceding sentence, the coding process for
23 such items, and beneficiary access to such items if
24 such items are not covered under the medicare pro-
25 gram.

1 (2) REPORT.—Not later than the date that is
2 2 years after the date of the enactment of this Act,
3 the Comptroller General shall submit a report on the
4 study conducted under paragraph (1) to the Com-
5 mittee on Ways and Means and the Committee on
6 Energy and Commerce of the House of Representa-
7 tives and the Committee on Finance of the Senate
8 together with such recommendations for legislative
9 and administrative action as the Comptroller Gen-
10 eral determines appropriate.

11 **SEC. 312. TWO-YEAR EXTENSION OF MORATORIUM ON**
12 **THERAPY CAPS; PROVISIONS RELATING TO**
13 **REPORTS.**

14 (a) 2-YEAR EXTENSION OF MORATORIUM ON THER-
15 APY CAPS.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4))
16 is amended by striking “and 2002” and inserting “2002,
17 2003, and 2004”.

18 (b) PROMPT SUBMISSION OF OVERDUE REPORTS ON
19 PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY
20 SERVICES.—Not later than December 31, 2002, the Sec-
21 retary shall submit to Congress the reports required under
22 section 4541(d)(2) of the Balanced Budget Act of 1997
23 (42 U.S.C. 1395l note) (relating to alternatives to a single
24 annual dollar cap on outpatient therapy) and under sec-
25 tion 221(d) of the Medicare, Medicaid, and SCHIP Bal-