

(1) in paragraph (1)(A), by inserting "(i)" after "(A)" and by adding at the end the following: "and diagnostic x-ray services," and

(2) in paragraph (2)(A), by striking "(A)" and inserting "(A)(i)".

(c) **CONFORMING AMENDMENT.**—Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "and services of a certified registered nurse anesthetist" and inserting "services of a certified registered nurse anesthetist, rural health clinic services, and Federally-qualified health center services".

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1995, and shall apply to services furnished on or after such date.

**SEC. 8436. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.**

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

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

(2) in paragraph (1)(C)(iii), by striking "paragraph (4)" and inserting "paragraph (3)";

(3) by striking paragraph (3); and

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

(b) **DIAGNOSTIC MAMMOGRAPHY.**—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting "and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act" after "necessary".

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

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

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "or whether screening mammography meets the standards established under section 1834(c)(3)".

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

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

**SEC. 8437. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.**

(a) **SERVICES DEFINED.**—Section 1861 (42 U.S.C. 1395x), as amended by section 8438(f)(6)(E), is amended by inserting after subsection (kk) the following new subsection:

**"Speech-Language Pathology Services; Audiology Services**

(1) The term 'speech-language pathology services' means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

(2) The term 'audiology services' means such hearing and balance assessment services furnished by a qualified audiologist as

the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), as would otherwise be covered if furnished by a physician.

"(3) In this subsection:

"(A) The term 'qualified speech-language pathologist' means an individual with a master's or doctoral degree in speech-language pathology who—

"(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 1 month of supervised full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who—

"(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 1 month of supervised full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary."

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) HOSPICE CARE.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking "therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

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

SEC. 8438. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

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

(1) by striking "provider number" and inserting "unique physician identification number"; and

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

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

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

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

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA-1989 is amended by striking section 6137.

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

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking “systems” each place it appears and inserting “system”; and

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

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

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

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

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

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

(A) by striking “subsection (aa)(3)” and inserting “subsection (aa)(5)”; and

(B) by striking “subsection (aa)(4)” and inserting “subsection (aa)(6)”.

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

(A) by striking “ambulatory” each place it appears and inserting “or ambulatory”; and

(B) by striking “center,” and inserting “center”.

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

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

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

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

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

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking “beginning with the first day of the first month in which the individual is no longer enrolled” and inserting “including each month during any part of which the individual is enrolled”; and

(ii) by striking “and ending seven months later” and inserting “ending with the last day of the eighth consecu-

tive month in which the individual is at no time so enrolled”.

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

“(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

“(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.”

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) **CLINICAL DIAGNOSTIC LABORATORY TESTS.**—Section 4154(e)(5) of OBRA-1990 is amended by striking “(1)(A)” and inserting “(1)(A).”

(3) **SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES.**—Section 4157(a) of OBRA-1990 is amended by striking “(a) SERVICES OF” and all that follows through “Section” and inserting “(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section”

(4) **COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.**—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

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

(ii) by striking “the Secretary’s approval or disapproval of the certification” and inserting “Secretary’s approval or disapproval”.

(B) Section 4161(a)(7)(B) of OBRA-1990 is amended by inserting “and to the Committee on Finance of the Senate” after “Representatives”.

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

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

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

(B) in subsection (e), by striking “The amendments” and inserting “Except as provided in subsection (d)(3), the amendments”.

(6) **INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.**—

(A) **CLARIFICATION OF DRUGS COVERED.**—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is amended—

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

(ii) in paragraph (1), by striking “patient” and inserting “individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual”.

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

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

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

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

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

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than a covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end of subparagraph (E) and inserting "; and"; and

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

"(F) with respect to a covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v)."

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than a covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA-1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA-1990, by striking "(jj) The term" and inserting "(kk) The term".

(7) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a-3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking "publish" and inserting "publish, and shall periodically update."

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

## PART 3—PROVISIONS RELATING TO PARTS A AND B

### Subpart A—Medicare Secondary Payer

#### SEC. 8441. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

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

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the nature of the coverage provided under the plan, including the name, address, and identifying number of the plan."

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall

enter into an agreement with an entity not later than the expiration of the 60-day period that begins on the date of the enactment of this Act, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

“(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.”

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

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

“(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

“(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed \$2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)), shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after the expiration of the 120-day period that begins on the date of the enactment of this Act.

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

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

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

“(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).”

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

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

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

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

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)); and"

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))".

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the carrier shall be subject to standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A))."

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments)."

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—"

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

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for contract years beginning on or after the date of the enactment of this Act.

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

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

(A) in clause (i)(II), by striking "over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer" and inserting "older (and the spouse age 65 or older of any individual) who has current employment status with an employer"; and

(B) in clause (ii), by striking "or employee organization that has 20 or more individuals in current employment status" and inserting "that has 20 or more employees".

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

(A) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" each place it appears in the second sentence of paragraph (1), and the second sentence of paragraph (2) and inserting "(as that term

is defined in section 1862(b)(1)(B)(iv) by reason of the individual's current employment status (or the current employment status of a family member of the individual);

(B) in paragraph (3)(B), by striking "as an active individual in a large group health plan (as such terms are defined in section 1862(b)(1)(B)(iv))" and inserting "in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual);

(C) in the second sentence of paragraph (2) (as amended by subparagraph (A)), by striking "as an active individual" and inserting "by reason of the individual's current employment status (or the current employment status of a family member of the individual); and

(D) by inserting "status" after "current employment" each place it appears in paragraphs (1)(A), (2)(B), (2)(C), and (3)(A).

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

(A) by inserting "status" after "current employment", and

(B) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" and inserting "(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)".

(4) Effective as if included in the enactment of OBRA-1990, the sentence in section 1862(b)(1)(C) added by section 4203(c)(1)(B) of OBRA-1990 is amended by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(5) Effective as if included in the enactment of OBRA-1989, section 1862(b)(1)(C) is amended in the matter after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(6) Effective as if included in the enactment of OBRA-1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(l)(12)(D)(iii)" and inserting "6103(l)(12)(E)(iii)".

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

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: "; without regard to the number of employees covered by such plans."

(8) Effective as if included in the enactment of OBRA-1990, section 4203(d) of OBRA-1990 is amended by striking "this subsection" and inserting "this section".

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

(A) by inserting "effective as if included in the enactment of OBRA-1989," after "(D)", and

(B) by striking "of each subparagraph".

(10) The amendment made by section 13561(e)(1)(G) of OBRA-1993, to the extent it relates to the definition of large



group health plan, shall be effective as if included in the enactment of OBRA-1989.

### Subpart B—Other Items and Services Relating to Parts A and B

#### SEC. 8451. DEFINITION OF FMGEMS EXAMINATION FOR PAYMENT OF DIRECT GRADUATE MEDICAL EDUCATION.

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

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

#### SEC. 8452. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans, as qualified medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

#### SEC. 8453. HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

##### (a) HOSPITAL AGREEMENTS.—

###### (1) IN GENERAL.—

(A) IDENTIFICATION OF ORGAN DONORS.—Section 1138(a)(1)(A)(iii) (42 U.S.C. 1320b-8(a)(1)(A)(iii)) is amended to read as follows:

“(iii) require that such hospital’s designated organ procurement agency (as defined in paragraph (3)(B)) is notified of potential organ donors;”

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

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

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

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

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

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

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

“(2)(A) The Secretary shall grant a waiver of the requirements under subparagraphs (A)(iii) and (C) of paragraph (1) to a hospital or rural primary care hospital desiring to enter into an agreement with an organ procurement agency other than such hospital’s designated organ procurement agency if the Secretary determines that—

(i) the waiver is expected to increase organ donation; and

(ii) the waiver will assure equitable treatment of patients referred for transplants within the service area served by such hospital’s designated organ procurement agency and within the service area served by the organ procurement agency with which the hospital seeks to enter into an agreement under the waiver.

"(B) In making a determination under subparagraph (A), the Secretary may consider factors that would include, but not be limited to—

"(i) cost effectiveness;

"(ii) improvements in quality;

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

"(iv) the length and continuity of a hospital's relationship with an organ procurement agency other than the hospital's designated organ procurement agency;

except that nothing in this subparagraph shall be construed to permit the Secretary to grant a waiver that does not meet the requirements of subparagraph (A).

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

"(D) The Secretary shall—

"(i) publish a public notice of any waiver application received from a hospital or rural primary care hospital under this paragraph within 30 days of receiving such application; and

"(ii) prior to making a final determination on such application under subparagraph (A), offer interested parties the opportunity to submit written comments to the Secretary during the 60-day period beginning on the date such notice is published."

(D) DEFINITIONS.—Section 1138(a)(3) (42 U.S.C. 1320b-8(a)(3)), as redesignated by subparagraph (C), is amended to read as follows:

"(3) For purposes of this subsection—

"(A) the term 'agreement' means an agreement described in section 371(b)(3)(A) of the Public Health Service Act;

"(B) the term 'designated organ procurement agency' means, with respect to a hospital or rural primary care hospital, the organ procurement agency designated pursuant to subsection (b) for the service area in which such hospital is located; and

"(C) the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection."

(2) EXISTING AGREEMENTS.—Any hospital or rural primary care hospital which has an agreement (as defined in section 1138(a)(3)(A) of the Social Security Act) with an organ procurement agency other than such hospital's designated organ procurement agency (as defined in section 1138(a)(3)(B) of such Act) on the date of the enactment of this section shall, if such hospital desires to continue such agreement on and after the effective date of the amendments made by paragraph (1), submit an application to the Secretary for a waiver under section 1138(a)(2) of such Act not later than January 1, 1995, and such agreement may continue in effect pending the Secretary's determination with respect to such application.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals and rural primary care hospitals participating in the programs under titles XVIII and XIX of the Social Security Act beginning January 1, 1995.

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

(1) IN GENERAL.—The Office of Technology Assessment (referred to in this section as the "OTA") shall, pursuant to the approval of the Technology Assessment Board of the OTA, conduct a study to determine the efficacy and fairness of requiring a hospital to enter into an agreement under section

371(b)(3)(A) of the Public Health Service Act with the organ procurement agency designated pursuant to section 1138(b) of the Social Security Act for the service area in which such hospital is located and the impact of such requirement on the efficacy and fairness of organ procurement and distribution.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the OTA shall complete the study required under paragraph (1) and prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the findings of such study and the implications of such findings with respect to policies affecting organ procurement and distribution.

**SEC. 8454. PEER REVIEW ORGANIZATIONS.**

**(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—**

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

**(2) CONFORMING AMENDMENTS.—**

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

(i) in subsection (a), by striking paragraph (12), and

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

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

(i) in subsection (a)(1)(D)(i), by striking “, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)”;

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

(iii) in subsection (a)(2)(A), by striking “, to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),”;

(iv) in subsection (a)(2)(D)(i)—

(I) by striking “basis,” and inserting “basis or”, and

(II) by striking “, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)”;

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

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

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

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

(i) by adding “or” at the end of paragraph (14),

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

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),"

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

(b) **MISCELLANEOUS AND TECHNICAL CORRECTIONS.**—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "whehter" and inserting "whether".

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

"(B) If the organization finds, after reasonable notice to and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a) and the organization determines that the physician or practitioner should enter into a corrective action plan under section 1156(b)(1), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding."

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

"(D) to provide notice in accordance with section 1154(a)(9)(B);"

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking "amendments" and inserting "amendment".

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

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

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

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

#### **SEC. 8455. HEALTH MAINTENANCE ORGANIZATIONS.**

(a) **ADJUSTMENT IN MEDICARE CAPITATION PAYMENTS TO TAKE INTO ACCOUNT SECONDARY PAYER STATUS.**—

(1) **IN GENERAL.**—In defining the classes to be used in determining the annual per capita rate of payment under section 1876(a)(1)(B) of the Social Security Act to an eligible organization with a risk-sharing contract under such section (for contract years beginning on or after October 1, 1994), the Secretary of Health and Human Services shall treat as a separate class individuals entitled to benefits under title XVIII of such Act with respect to whom there is a group health plan that is a primary plan (within the meaning of section 1862(b)(2)(A) of such Act).

(2) **DEADLINE FOR ANNOUNCEMENT OF RATES.**—Not later than September 1, 1994, the Secretary shall announce annual per capita rates of payment for eligible organizations described in paragraph (1) that take into account the separate treatment of individuals with respect to whom there is a group health plan that is a primary plan.

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

"(b) **REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.**—(1)(A) Not later than October 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the 'Secretary') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years begin-

ning with 1996 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A), the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

"(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications."

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(2) Section 4204(c)(3) of OBRA-1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA-1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(D) (42 U.S.C. 1395mm(a)(1)(E)(ii)(D)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA-1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA-1990 is amended by striking "final".

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

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking "unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

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

#### SEC. 8456. HOME HEALTH AGENCIES.

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

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "as of such date to" and inserting "and determined using the survey of the most recent available wages and wage-related costs of".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after July 1, 1996.

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

(1) IN GENERAL.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

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

#### SEC. 8457. PERMANENT EXTENSION OF AUTHORITY TO CONTRACT WITH FISCAL INTERMEDIARIES AND CARRIERS ON OTHER THAN A COST BASIS.

(a) IN GENERAL.—Section 2326(a) of the Deficit Reduction Act of 1984, as amended by section 6215 of OBRA-1989, is amended in the third sentence by striking "during such period" and inserting "beginning with fiscal year 1990 and any subsequent fiscal year".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 8458. TRANSPORTATION DEMONSTRATION PROJECT.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall conduct a demonstration project at 2 sites to—

(1) examine methods to reduce the cost of non-emergency medical transportation and regularly scheduled medical transportation by coordinating the timing of the provision of non-emergency medical services with the availability of public transportation; and

(2) examine methods to reduce the cost of emergency medical transportation and emergency room treatment through the supervised use of ambulance emergency medical technicians.

(b) **SELECTION OF SITES.**—Of the 2 sites selected for the demonstration project under subsection (a), one shall be in an urban area and one shall be in a rural area.

**SEC. 8459. DIABETES TREATMENT DEMONSTRATION PROJECT.**

The Secretary of Health and Human Services shall conduct a demonstration project at sites in urban and rural areas under which the Secretary shall provide for coverage under the medicare program of comprehensive diabetes treatment, management, and education services (including services necessary to provide intensive metabolic management found effective by the Diabetes Control and Complications Trial of the National Institutes of Health) to determine whether the manner in which payment is made for the treatment of diabetes under the medicare program should be modified.

**SEC. 8460. EXPANSION OF NUMBER OF SITES FOR DEMONSTRATION PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE).**

Section 9412(b)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "not more than 15" and inserting "not more than 30".

**SEC. 8460A. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

(a) **SURVEY AND CERTIFICATION REQUIREMENTS.**—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

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

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

(b) **HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTIONS.**—Section 4202 of OBRA-1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(3) in subsection (c)(1)(A), by striking "skilled"; and

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) **TECHNICAL CORRECTION TO REVISIONS OF COVERAGE FOR IMMUNOSUPPRESSIVE DRUG THERAPY.**—The Secretary of Health and Human Services may administer section 1861(s)(2)(J) of the Social Security Act in a manner such that the months of coverage of drugs described in such section are provided consecutively, so long

as the total number of months of coverage provided is the same as the number described in such section.

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

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

(3) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(4) The section following section 4206 of OBRA-1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA-1990.

(5)(A) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after "such review."

(B) Section 4207(a)(4) of OBRA-1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(C) Section 4207(b)(1) of OBRA-1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

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

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibility" and inserting "feasibility".

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

(8) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

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

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

(11) Section 4207(i)(2) of OBRA-1990 is amended—

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

(B) in clause (v), by striking "residents" and inserting "patients".

(12) Section 4207(j) of OBRA-1990 is amended by striking "title" each place it appears and inserting "subtitle".

## PART 4—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES

### SEC. 8461. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

(1) Section 4351 of OBRA-1990 is amended by striking "(a) IN GENERAL.—"

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards').", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the re-

vised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation');

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation";

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)";

(b) **GUARANTEED RENEWABILITY.**—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) **ENFORCEMENT OF STANDARDS.**—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting



“on and after the effective date specified in subsection (p)(1)(C).”

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking “The report” and inserting “Each report”;

(B) by inserting “and requirements” after “standards”;

(C) by striking “and” after “compliance,” and

(D) by striking the comma after “Commissioners”.

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking “Panel” and inserting “Secretary”.

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking “the the Secretary” and inserting “the Secretary”.

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

“(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

“(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX.

“(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

“(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.”;

(B) by designating the second sentence as clause (ii) and, in such clause, by striking “the previous sentence” and inserting “clause (i)”;

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking “the previous sentence” and inserting “clause (i) with respect to the sale of a medicare supplemental policy”, and

(ii) by striking “and the statement” and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking “65 years of age or older”;

(B) in clause (iii)(I), by striking “another medicare” and inserting “a medicare”;

(C) in clause (iii)(I), by striking “such a policy” and inserting “a medicare supplemental policy”;

(D) in clause (iii)(II), by striking “another policy” and inserting “a medicare supplemental policy”, and

(E) by amending subclause (III) of clause (iii) to read as follows:

“(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if (aa) a State medicaid plan under such title pays the premiums for the policy, (bb) in the case of a qualified medicare beneficiary described in section 1905(p)(1), the policy provides for coverage of outpatient prescription drugs, or (cc) the only medical assistance to which the individual is entitled under the State plan is medicare cost sharing described in section 1905(p)(3)(A)(ii).”

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: "(ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title and (in the case of a policy that is not a health plan described in section 2203(c)(2) and does not provide coverage for benefits regardless of other coverage), to the extent considered appropriate by the Secretary, benefits under the guaranteed national benefit package under title XXI or under a standardized benefit package for supplemental health benefit policies established under part D of title XXII, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved."

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking "of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS. —

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 8461(m)(4) of the Guaranteed Health Insurance Act of 1994.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 8461(m)(4) of the Guaranteed Health Insurance Act of 1994.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disallowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA-1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date de-

scribed in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of the Social Security Act."

(f) TREATMENT OF HMO'S. —

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1995, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA-1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS. — Section 1882(s) (42 U.S.C. 1395ss(s)) is amended —

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES. —

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended —

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended —

(A) by inserting "that is" after "or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING. — Section 4360 of OBRA-1990 is amended —

(1) in subsection (b)(2)(A)(iii), by striking "Act" and inserting "Act";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e) —

(A) by striking "subsection (c) or (d)" and inserting "this section";

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report"; and

(C) in paragraph (1), by striking "State-wide";

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) in the second subsection (f) (relating to authorization of appropriations for grants)—

(A) by striking "and 1993" and inserting "1993, 1994, 1995, and 1996"; and

(B) by redesignating such subsection as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b-2) is amended—

(A) by adding at the end of the heading the following:

"MEDICARE AND MEDIGAP INFORMATION";

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title."

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies)."

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

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

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q)."

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA-1990, except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA-1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1995, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1995, and who were not covered under such section before January 1, 1995, the 6-month period specified in that section shall begin January 1, 1995).

(m) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely

to failure to make such change until the date specified in paragraph (4).

(2) **NAIC STANDARDS.**—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the “NAIC”) modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with “unless”, such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(3) **SECRETARY STANDARDS.**—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(4) **DATE SPECIFIED.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) **ADDITIONAL LEGISLATIVE ACTION REQUIRED.**—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

## Subtitle F—Provisions Relating to the Medicaid Program

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## PART 1—CONFORMING MEDICAID TO GUARANTEED HEALTH INSURANCE ACT OF 1994

### SEC. 8501. CONFORMING MEDICAID AMENDMENTS RELATING TO GUARANTEED NATIONAL BENEFIT PACKAGE.

#### (a) LIMITING COVERAGE UNDER MEDICAID.—

(1) IN GENERAL.—Title XIX is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

#### "LIMITATION ON COVERAGE OF SERVICES UNDER GUARANTEED NATIONAL BENEFIT PACKAGE

"SEC. 1931. (a) IN GENERAL.—Subject to subsection (b), a State plan under this title is not required to provide medical assistance on or after January 1, 1999, consisting of payment for any item or service which is included in the guaranteed national benefit package under title III of the Guaranteed Health Insurance Act of 1994.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) emergency care and services described in section 1903(v)(2) furnished before January 1, 2002, or

"(2) inpatient mental health services provided to individuals who are entitled to benefits under part A of title XVIII.

"(c) NO FFP FOR STATE MAINTENANCE-OF-EFFORT.—Payment of amounts under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994 shall not be construed to constitute medical assistance for purposes of section 1903(a)."

(2) CONFORMING AMENDMENT TO STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended in the matter preceding paragraph (1) by striking "A State" and inserting "Subject to section 1931, a State"

(3) NO FEDERAL FINANCIAL PARTICIPATION.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking "or" at the end of paragraph (14),

(B) by striking the period at the end of paragraph (15) and inserting "or" and

(C) by inserting after paragraph (15) the following new paragraphs:

"(16) with respect to medical assistance consisting of payment for items or services furnished to an individual on or after January 1, 1999, to the extent that payment may be made for the item or service under the guaranteed national

benefit package under title III of the Guaranteed Health Insurance Act of 1994; or

"(17) with respect to any medical assistance furnished on or after January 1, 1999, to an individual entitled to benefits under part A of title XVIII other than long-term care services described in section 1905(t)."

(4) **LONG-TERM CARE SERVICES DEFINED.**—Section 1905 (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) The term 'long-term care services' means the following items and services:

"(1) Nursing facility services and intermediate care facility services for the mentally retarded (including items and services that may be included in such services pursuant to regulations in effect as of October 26, 1993).

"(2) Personal care services.

"(3) Home or community-based services provided under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(4) Home and community care provided to functionally disabled elderly individuals under section 1929.

"(5) Community supported living arrangements services provided under section 1930.

"(6) Home health care services, case-management services, clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in paragraphs (1) through (5)."

(5) **CONFORMING AMENDMENTS RELATING TO SECONDARY PAYER.**—(A) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by inserting "certified health plans (as defined in section 2 of the Guaranteed Health Insurance Act of 1994 and including medicare part C)," after "of 1974)."

(B) Section 1903(o) (42 U.S.C. 1396b(o)) is amended by inserting "and a certified health plan (as defined in section 2 of the Guaranteed Health Insurance Act of 1994 and including medicare part C)" after "of 1974)".

(c) **OTHER MEDICAID CONFORMING AMENDMENTS.**—Section 1902(a)(9)(C) (42 U.S.C. 1396a(a)(9)(C)) and section 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (15) and (16) of section 1861(s)" and inserting "subsections (a) and (b) of section 1890".

**SEC. 8502. ENFORCEMENT OF MAINTENANCE-OF-EFFORT REQUIREMENTS THROUGH MEDICAID.**

(a) **STATE PLAN REQUIREMENT.**—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting ", and"; and

(3) by inserting after paragraph (62) the following new paragraphs:

"(63) provide assurances that the State is making payments required under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994."

(b) **WITHHOLDING AMOUNTS UNPAID.**—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(x) Notwithstanding any other provision of this section, the Secretary shall reduce the amount of payment made to a State under this section for quarters in any fiscal year to the extent that the State fails to make the payments required for the fiscal year under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994 in a timely manner."

**SEC. 8503. CONFORMING MEDICAID AMENDMENTS RELATING TO QUALITY AND CONSUMER PROTECTION.**

(a) **STATE PLAN REQUIREMENTS.**—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 8502(a), is amended—



(1) by striking "and" at the end of paragraph (61);  
 (2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by inserting, after paragraph (62) the following new paragraphs:

"(63) provide that the identification cards issued under the State plan conform with the requirements of section 9101(c) of the Guaranteed Health Insurance Act of 1994;

"(64) provide that the claims process applicable under the State plan conforms with the requirements of section 9103(c) of the Guaranteed Health Insurance Act of 1994; and

"(65) provide that the State plan meets the requirements of section 9104(c)(4) of the Guaranteed Health Insurance Act of 1994."

(b) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR IMPROPERLY SUBMITTED CLAIMS.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 8501(a)(3), is amended—

(A) by striking "or" at the end of paragraph (16),

(B) by striking the period at the end of paragraph (17) and inserting "; or", and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) with respect to medical assistance consisting of payment for items and services for which the claim was not submitted in a form and manner consistent with the standards established under section 9103(c) of the Guaranteed Health Insurance Act of 1994."

**SEC. 8504. CONFORMING AMENDMENTS RELATING TO COST-SHARING FOR QUALIFIED MEDICARE BENEFICIARIES.**

(a) IN GENERAL.—Title XIX is amended as follows:

(1) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (C) in the matter preceding clause (i), by striking "or (E)";

(B) by adding "and" at the end of subparagraph (D);

(C) by striking subparagraph (E) and redesignating subparagraph (F) as subparagraph (E); and

(D) in the matter following subparagraph (E) (as so redesignated), by striking clause (VIII).

(2) Section 1902(e) (42 U.S.C. 1396a(e)) is amended by striking paragraph (8).

(3) The first sentence of section 1902(f) (42 U.S.C. 1396a(f)) is amended by striking "qualified disabled" and all that follows through "medicare beneficiaries".

(3) Section 1902(m)(4) (42 U.S.C. 1396a(m)(4)) is amended—

(A) in the matter preceding subparagraph (A), by striking "1905(p)(1)" and inserting "1894(e)(1)"; and

(B) in subparagraph (A), by striking "1905(p)(1)(B)" and inserting "1894(e)(1)(B)".

(4) Section 1902(u)(2) (42 U.S.C. 1396a(u)(2)) is amended by striking "(a)(10)(F)" and inserting "(a)(10)(E)".

(5) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A) by striking "1902(a)(10)(A)(ii)(X)" or "1905(p)(1)" and inserting "or 1902(a)(10)(A)(ii)(X)".

(6) Section 1905(a) (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1) by striking "or, in the case of medicare cost-sharing" and all that follows through "such a beneficiary".

(7) Section 1905 (42 U.S.C. 1396d) is amended by striking subsections (p) and (s).

(8) Section 1916 (42 U.S.C. 1396o) is amended—

(A) in subsection (a) in the matter preceding paragraph (1), by striking "or (E)(i)";

(B) in subsection (b) in the matter preceding paragraph (1), by striking "or (E)"; and

(C) by striking subsection (d).

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to items or services furnished in a State on or after January 1, 1999.

**SEC. 8505. TREATMENT OF CERTAIN FACILITIES AS FEDERALLY QUALIFIED HEALTH CENTERS.**

(a) **IN GENERAL.**—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended—

(1) by striking "or 340A" each place it appears in clause (i) and clause (ii)(I) and inserting "340A, or 508";

(2) by striking "or" at the end of clause (iii);

(3) by striking the semicolon at the end of clause (iv) and inserting a comma; and

(4) by inserting after clause (iv) the following new clauses:

"(v) is a Native Hawaiian Health Center (as defined in section 8(4) of the Native Hawaiian Health Care Act of 1988), or

"(vi) is a community clinic organized as a nonprofit, public benefit corporation, under California Health and Safety Code § 1204(a) that does not charge patients directly for services rendered."

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to quarters beginning on or after July 1, 1995.

**SEC. 8506. WAIVERS FACILITATING STATE HEALTH SECURITY PROGRAMS.**

(a) **IN GENERAL.**—Section 1115(a) (42 U.S.C. 1315(a)) is amended by adding at the end the following: "The Secretary may not waive compliance with any of the requirements of section 1902 under this subsection with respect to a State for a year except to the extent necessary to enable the State to operate an approved State single-payer system under subtitle A of title IV of the Guaranteed Health Insurance Act of 1994 or an approved State managed competition system under subtitle B of title IV."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect—

(1) on January 1, 1999, in the case of a State with a waiver approved under section 1115(a) of the Social Security Act for which a formal, written, and completed application was received by the Secretary of Health and Human Services under such section on or before August 1, 1994; or

(2) on August 1, 1994, in the case of any other State.

**SEC. 8507. CONFORMING REQUIREMENTS FOR REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS.**

(a) **IN GENERAL.**—Section 1927(a)(1) (42 U.S.C. 1396r-8(a)(1)) is amended by striking "manufacturer," and inserting "manufacturer) and a rebate agreement with the Secretary under section 1850."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to covered outpatient drugs furnished during quarters beginning on or after January 1, 1999.

**SEC. 8508. CONSTRUCTION OF GUARANTEED HEALTH INSURANCE ACT OF 1994 REFERENCES.**

Section 1932 (42 U.S.C. 1396s), as redesignated by section 8501(a), is amended by adding at the end the following new subsection:

"(c) **REFERENCES GUARANTEED HEALTH INSURANCE ACT OF 1994.**—In this title, except as otherwise specifically provided, any references to provisions of the Guaranteed Health Insurance Act of 1994 are deemed to be references to such provisions as in effect on the day after the date of the enactment of such Act."

## PART 2—LONG-TERM CARE

## SEC. 8511. COORDINATION OF OPTIONAL HOME AND COMMUNITY BASED SERVICES UNDER MEDICAID WITH LONG-TERM CARE UNDER GUARANTEED HEALTH INSURANCE ACT OF 1994.

(a) PERSONAL CARE SERVICES.—Section 1905(a)(24) (42 U.S.C. 1396d(a)(24)) is amended—

- (1) by striking “and (C)” and inserting “(C)”; and
- (2) by striking “location;” and inserting “location, and (D) for quarters beginning on or after October 1, 1999, in compliance with the standards applicable to personal assistance services under the long-term care program for home and community-based services under subtitle A of title X of the Guaranteed Health Insurance Act of 1994;”.

(b) SERVICES UNDER HOME AND COMMUNITY-BASED WAIVERS.—

(1) Section 1915(c)(2) (42 U.S.C. 1396n(c)(2)) is amended—

- (1) by striking “and” at the end of subparagraph (D);
- (2) by striking the period at the end of subparagraph (E) and inserting “; and”; and
- (3) by adding at the end the following new subparagraph:“(F) effective October 1, 1997, the services furnished under the waiver meet the applicable standards for home and community-based services furnished under the long-term care program for home and community-based services under subtitle A of title X of the Guaranteed Health Insurance Act of 1994.”.

(2) Section 1915(d)(2) (42 U.S.C. 1396n(d)(2)) is amended—

- (1) by striking “and” at the end of subparagraph (B);
- (2) by striking the period at the end of subparagraph (C) and inserting “; and”; and
- (3) by inserting after subparagraph (C) the following new subparagraph:

“(D) effective October 1, 1997, the services furnished under the waiver meet the applicable standards for home and community-based services furnished under the long-term care program for home and community-based services under subtitle A of title X of the Guaranteed Health Insurance Act of 1994.”.

## SEC. 8512. NURSING HOME PASS-THROUGH.

Section 1902(a)(13)(A) (42 U.S.C. 1396a(a)(13)(A)) is amended by—

- (1) inserting “incurred by facilities in making required contributions towards enrolling employees in health plans under the Guaranteed Health Insurance Act of 1994 and” before “the costs of services”; and
- (2) by striking “nursing care, and which” and inserting “nursing care, and which, in the case of intermediate care facilities for the mentally retarded, take into account the costs incurred by facilities in making required contributions towards enrolling employees in health plans under the Guaranteed Health Insurance Act of 1994, and which”.

## SEC. 8513. CONTINUATION OF TEXAS FRAIL ELDERLY DEMONSTRATION.

A State that is described in section 1929(b)(2)(B) of the Social Security Act and is receiving Federal financial participation under section 1903(a) of such Act as of the date of the enactment of this Act with respect to medical assistance consisting of home and community care for functionally disabled elderly individuals that meets the requirements for such care described in section 1929 of the Social Security Act may continue to receive participation with respect to such medical assistance under the same terms and conditions during quarters ending on or before September 30, 1997.

### PART 3—HEALTH MAINTENANCE ORGANIZATIONS

#### SEC. 8521. PERMITTING GARDEN STATE HEALTH PLAN TO PARTICIPATE IN MANAGED CARE WAIVER.

Section 1903(m)(6)(D) (42 U.S.C. 1396b(m)(6)(D)) is amended to read as follows:

“(D) The undertaking described in subparagraph (A) shall be eligible to participate in a waiver under section 1915(b) if the State provides individuals subject to the waiver with the option to enroll in at least 3 plans in addition to the plan offered through the undertaking.”

#### SEC. 8522. EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO DAYTON AREA HEALTH PLAN.

Section 2 of Public Law 102-276 is amended by striking “December 31, 1995” and inserting “December 31, 1999”.

#### SEC. 8523. CLARIFICATION OF APPLICABILITY OF RESTRICTIONS ON FEDERAL FINANCIAL PARTICIPATION.

Section 1903(i) (42 U.S.C. 1396b(i)) is amended in the matter preceding paragraph (1) by striking “the preceding provisions of this section” and inserting “this section (including subsection (m))”.

### PART 4—VACCINES FOR CHILDREN

#### SEC. 8531. STATE MANDATE FOR INSURERS TO OFFER COVERAGE OF IMMUNIZATIONS AND WELL-CHILD SERVICES.

(a) REQUIREMENT FOR PEDIATRIC IMMUNIZATION PROGRAM.—Section 1928(f) (42 U.S.C. 1396s(f)) is amended to read as follows:

“(f) STATE INSURANCE REQUIREMENTS.—

“(1) MAINTENANCE OF IMMUNIZATION LAWS FOR CERTAIN STATES.—In the case of a State that had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, a State program under this section does not comply with the requirements of this section unless the State certifies to the Secretary that the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

“(2) REQUIREMENT FOR COVERAGE OF IMMUNIZATIONS AND WELL-CHILD SERVICES.—A State program under this section does not comply with the requirements of this section unless the State certifies to the Secretary that State has in effect a law that requires (and allows enforcement through private rights of action) health insurance policies or plans issued or renewed on or after January 1, 1995, to provide coverage for the following services without deductible, coinsurance, or any other form of cost-sharing:

“(A) All vaccines on the list described in subsection (e).

“(B) Well-child services (including the administration of vaccines referred to in subparagraph (A)) for children 6 years of age or younger, as determined by the Secretary after consultation with recognized medical organizations involved in child health care.”

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to calendar quarters beginning on or after January 1, 1995.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title 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 the 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 such session shall be deemed to be a separate regular session of the State legislature.

**SEC. 8532. LIMITATION ON STATE ABILITY TO PURCHASE VACCINES AT FEDERAL PRICE.**

(a) **IN GENERAL.**—Section 1928(d)(4)(B) (42 U.S.C. 1396s(d)(4)(B)) is amended by striking “each State” and inserting “each eligible State (as described in paragraph (8))”.

(b) **STATES ELIGIBLE TO PURCHASE AT FEDERAL PRICE DESCRIBED.**—Section 1928(d) (42 U.S.C. 1396s(d)) is amended by adding at the end the following new paragraph:

“(8) **STATES ELIGIBLE TO PURCHASE AT FEDERAL PRICE DESCRIBED.**—

“(A) **IN GENERAL.**—A State is eligible for purposes of paragraph (4)(B) if the State—

“(i)(I) is a universal purchase State (as defined in subparagraph (B)), or

“(II) the State agrees that the vaccines obtained under such paragraph will be used to provide immunizations only for children who do not have private insurance coverage for all the vaccines on the list described in subsection (e) without deductible, coinsurance, or any other form of cost-sharing; and

“(ii) does not have in operation a trust fund or similar mechanism consisting of contributions from private entities that provide health care or offer or sell health plans from which amounts are used to purchase vaccines pursuant to contracts of the Centers for Disease Control and Prevention with vaccine manufacturers (unless such trust fund was in operation as of July 1, 1994).

“(B) **UNIVERSAL PURCHASE STATE DEFINED.**—

“(i) **IN GENERAL.**—In paragraph (4)(B), the term “universal purchase state” means any of the following:

“(I) A State which has in effect as of July 1, 1994, a vaccine purchase program designed to assure immunization of all children in the State with the vaccines specified in subparagraph (C) without charge.

“(II) A State which advises the Centers for Disease Control and Prevention as of July 20, 1994, of its intent to provide the vaccines specified in subparagraph (C), and, by October 1, 1994, provides the vaccines in volumes necessary to assure immunization of all children in the State, pursuant to contracts of the Centers for Disease Control and Prevention with vaccine manufacturers with effective dates on or before October 1, 1994.

“(III) A State which manufacturers any of the vaccines specified in clause (ii).

“(C) **VACCINES SPECIFIED.**—The vaccines specified in this subparagraph are as follows: diphtheria, pertussis, tetanus, oral polio, measles, mumps, and rubella.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to quarters beginning on or after January 1, 1995.

**PART 5—TREATMENT OF INDIANS AND INDIAN HEALTH SERVICE PROVIDERS**

**SEC. 8541. NONDISCRIMINATION IN PARTICIPATION PROVIDERS.**

Section 1911(a) (42 U.S.C. 1396j(a)) is amended by striking the period at the end and inserting the following: “, without regard to whether or not the facility furnishes all medical assistance covered under the State plan.”

**SEC. 8542. REQUIRING INDIVIDUALS SUBJECT TO WAIVERS TO HAVE OPTION TO ENROLL IN INDIAN HEALTH SERVICE PLANS.**

(a) 1115 WAIVERS.—Section 1115 (42 U.S.C. 1315) is amended by adding at the end the following new subsection:

“(e)(1) A State with a waiver granted under subsection (a) with respect to title XIX may not prohibit any individual eligible under the State plan under such title from receiving services pursuant to the waiver at a facility described in paragraph (2), and may not refuse to make payment under the State plan for medical assistance provided to such an individual at such a facility.

“(2) A facility described in this paragraph is a facility described in section 1911(a), or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.”

(b) 1915 WAIVERS.—Section 1915(c) (42 U.S.C. 1396n(c)) is amended by adding at the end the following: “No waiver under this subsection may prohibit any individual from receiving services pursuant to the waiver at a facility described in section 1911(a), or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.”

**SEC. 8543. TREATMENT OF OUTPATIENT FACILITIES AS FEDERALLY QUALIFIED HEALTH CENTERS.**

(a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended in the matter following clause (iv) by inserting “the Indian Health Service or” after “operated by”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to quarters beginning on or after July 1, 1995.

**PART 6—EFFECTIVE DATE OF AMENDMENTS****SEC. 8551. AMENDMENTS EFFECTIVE WITHOUT REGARD TO ISSUANCE OF REGULATIONS.**

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) ISSUANCE OF REGULATIONS NOT REQUIRED.—Each amendment made by this subtitle shall take effect on the effective date provided for such amendment, without regard to whether or not final regulations to carry out the amendment have been issued by such effective date.

**Subtitle G—Miscellaneous and Technical Medicaid Amendments**

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## PART 1—SUBSTANTIVE PROVISIONS

### Subpart A—Managed Care Provisions

#### SEC. 8601. MEDICAID MANAGED CARE ANTIFRAUD PROVISIONS.

##### (a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES. —

(1) IN GENERAL. — Section 1903(m) (42 U.S.C. 1396b(m)) is amended —

(A) in paragraph (2)(A) —

(i) by striking "and" at the end of clause (x),

(ii) by striking the period at the end of clause (xi) and inserting "; and", and

(iii) by adding at the end the following new clause:

"(xii) the entity complies with the requirements of paragraph (3) (relating to certain protections against fraud and abuse).";

(B) in paragraph (2)(B), as amended by section 8649, by striking "clause (ix)" and inserting "clauses (ix) and (xii)"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A)(i) An entity with a contract under this subsection may not have a person described in clause (iv) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the entity's equity.

"(ii) An entity with a contract under this subsection may not have an employment, consulting, or other agreement with a person described in clause (iv) for the provision of goods and services that are significant and material to the entity's obligations under its contract with the State described in paragraph (2)(A)(iii).

"(iii) If an entity with a contract under this subsection is not in compliance with clause (i) or (ii)—

"(I) a State may continue an existing agreement with the entity unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(II) a State may not renew or otherwise extend the duration of an existing agreement with the entity unless the State provides a written statement to the Secretary describing compelling reasons that exist for renewing or extending the agreement and the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) approves such statement.

"(iv) A person described in this clause is a person that—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting, or

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in subclause (I)."

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall apply to agreements between a State and an entity under section 1903(m) of the Social Security Act entered into or renewed on or after January 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(b) **REQUIREMENT FOR STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.**—

(1) **IN GENERAL.**—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a)(1)(A), is amended—

(A) by striking "and" at the end of clause (xi),

(B) by striking the period at the end of clause (xii) and inserting "; and", and

(C) by adding at the end the following new clause:

"(xiii) the State certifies to the Secretary and the Secretary finds that the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State who have responsibilities with respect to contracts with organizations under this subsection that are at least as effective as the Federal conflicts-of-interest safeguards provided under section 27 of the Office of Federal Procurement Policy Act that apply with respect to Federal procurement officials who have comparable responsibilities with respect to such contracts."

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall apply as of July 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date.

(c) **REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.**—

(1) **IN GENERAL.**—Section 1903(m)(3), as inserted by subsection (a)(1)(C), is amended by adding at the end the following new subparagraph:



"(B) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that—

"(i) the entity agrees to report to the State such financial information as the Secretary or the State may require to demonstrate that the entity has a fiscally sound operation; and

"(ii) the entity agrees to make available to its enrollees upon reasonable request—

"(I) the information reported under clause (i),

"(II) the information required to be disclosed under sections 1124 and 1126, and

"(III) a description of each transaction, described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act, between the entity and a party in interest (as defined in section 1318(b) of such Act)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after April 1, 1994, without regard to whether regulations to carry out such amendments are promulgated by such date, with respect to information reported or required to be disclosed, or transactions occurring, before, on, or after such date.

(d) PROHIBITING MARKETING FRAUD.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsection (c)(1), is amended by adding at the end the following new subparagraph:

"(C) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity agrees to comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled or reenrolled with the entity, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll or reenroll."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years that begin on or after April 1, 1994.

(e) REQUIRING ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

(1) IN GENERAL.—Section 1903(m)(1)(A)(ii) (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by inserting ", which meets such standards as the Secretary shall prescribe," after "satisfactory to the State".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 1995.

(f) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—

(1) IN GENERAL.—Section 1903(m)(3), as inserted by subsection (a)(1) and as amended by subsections (c)(1) and (d)(1) is amended by adding at the end the following new subparagraph:

"(D) The contract between the State and an entity referred to in paragraph (2)(A)(iii) shall provide that the entity shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) a financial statement of the entity's net earnings under the contract during the contract year, which statement has been audited using generally accepted auditing standards;

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the entity and entitled to medical assistance under the plan; and

"(iii) such other information as the Secretary may prescribe."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contract years beginning on or after January 1, 1994.

**SEC. 8602. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.**

Section 6411(f) of OBRA-1989, as amended by section 1 of Public Law 102-317, is amended by striking "January 31, 1994" and inserting "December 31, 1995".

**SEC. 8603. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described in subsection (b), if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) **PERIOD OF APPLICABILITY.**—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on December 31, 1995.

**SEC. 8604. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO MANAGED HEALTH SERVICES INSURANCE CORPORATION OF MILWAUKEE, WISCONSIN.**

The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(ii)) to the entity known as the Managed Health Services Insurance Corporation of Milwaukee, Wisconsin until December 31, 1995, if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

**SEC. 8605. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.**

(a) **IN GENERAL.**—Section 507 of the Family Support Act of 1988 (Public Law 100-485), as amended by section 6411(j) of OBRA-1989 and by section 4733 of OBRA-1990, is amended by striking "1996" and inserting "1998".

**(b) AUTHORITY TO IMPOSE PREMIUM.**—

(1) **IN GENERAL.**—Notwithstanding section 1916 of the Social Security Act and subject to paragraph (2), the State of Minnesota may impose a premium on individuals receiving medical assistance under the Minnesota Prepaid Demonstration Project operated under a waiver granted by the Secretary of Health and Human Services under section 1115(a) of the Social Security Act and other individuals eligible under the State's plan for medical assistance under title XIX of such Act.

(2) **LIMITATION ON AMOUNT OF PREMIUM.**—In no case may the amount of any premium imposed on an individual receiving medical assistance under the State plan or under the Demonstration Project described in paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of the individual exceeds 110 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

**Subpart B—Home and Community-Based Services Waiver Provisions****SEC. 8611. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.**

(a) **IN GENERAL.**—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking "with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

**SEC. 8612. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST-EFFECTIVE.**

(a) **IN GENERAL.**—Section 1902(a)(25)(B), (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

“(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability, unless—

“(i) the amount of reimbursement the State can reasonably expect to recover for medical assistance furnished to an individual does not exceed the costs of such recovery, or

“(ii) with respect to case management services (as defined in section 1915(g)(2)), the State demonstrates to the satisfaction of the Secretary that it is not cost-effective in the aggregate to seek such recovery with respect to such services furnished to individuals covered under the State plan, using methods specified by the Secretary which may include a demonstration that such services are not generally covered by health insurers in the State.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall become effective on January 1, 1994.

**SEC. 8613. STATE EXPENDITURES FOR MEDICAL ASSISTANCE WITH RESPECT TO HOME AND COMMUNITY-BASED SERVICES PROVIDED UNDER A WAIVER.**

(a) **IN GENERAL.**—Section 1915(d)(5)(B), (42 U.S.C. 1396n(d)(5)(B)) is amended—

(1) in clause (i), by striking “times the number of years” and inserting “compounded annually for years”;

(2) in clause (ii), by striking “times the number of years” and inserting “compounded annually for years”; and

(3) in clause (iv), by striking “December 22, 1987” and inserting “the date of the enactment of the Omnibus Budget Reconciliation Act of 1986”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall be effective as if included in the enactment of OBRA-1987.

### Subpart C—Other Provisions

**SEC. 8621. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN.**

(a) **QUALIFIED PROVIDER.**—Section 1920(b)(2) (42 U.S.C. 1396r-1(b)(2)) is amended to read as follows:

“(2) the term ‘qualified provider’ means—

“(A) any provider that—

“(i) is eligible for payments under a State plan approved under this title;

“(ii) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9);

“(iii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A); and

“(iv)(I) receives funds under section 329, 330, 340, or 340A of the Public Health Service Act, title V of this Act, or title V of the Indian Health Care Improvement Act;

“(II) participates in a program established under section 17 of the Child Nutrition Act of 1966 or section 4(a) of the Agriculture and Consumer Protection Act of 1973;

“(III) participates in a State perinatal program; or

“(IV) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organi-

zation under the Indian Self-Determination Act (Public Law 93-638); and

(B) at the option of the State, any individual who is employed by the State and who is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1994.

**SEC. 8622. CRITERIA FOR DETERMINING THE AMOUNT OF DISALLOWANCES.**

(a) **IN GENERAL.**—

(1) **CRITERIA FOR INITIAL DETERMINATIONS.**—Section 1903 (42 U.S.C. 1396b) is amended by adding at the end the following new subsection:

“(x) If the Secretary determines that a disallowance of Federal financial participation should be made under this title with respect to any item or class of items, the Secretary shall, in making a determination with respect to the amount of such disallowance, take into account (to the extent the State makes a showing) factors which shall include—

“(1) whether the amount of the disallowance is reasonably related to the act or omission by the State which is the basis for the disallowance; and

“(2) whether the act or omission by the State which is the basis for the disallowance was based on a reasonable interpretation of Federal statutes, Federal regulations, or any written guidance provided by the Secretary.”

(2) **CRITERIA FOR REDETERMINATIONS.**—Section 1116(d) (42 U.S.C. 1316(d)) is amended—

(A) by striking “(d)” and inserting “(d)(1)”; and

(B) by adding at the end the following new paragraph:

“(2) In conducting any reconsideration of a disallowance of Federal financial participation by the Secretary under title XIX, the Departmental Appeals Board of the Department of Health and Human Services (or another entity designated by the Secretary), shall, if such Board or entity upholds the basis for the disallowance, determine whether the amount of the disallowance properly takes into account the factors listed in section 1903(x). If the amount of the disallowance does not properly take into account such factors, the Board shall adjust such amount in accordance with such factors.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.

**SEC. 8623. INTERMEDIATE SANCTIONS FOR KICKBACK VIOLATIONS.**

(a) **PENALTY FOR KICKBACK VIOLATIONS.**—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking “or” at the end of paragraphs (1) and (2);

(2) by adding “or” at the end of paragraph (3);

(3) by inserting after paragraph (3) the following new paragraph:

“(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b) with respect to remuneration relating to a State health care program.”

(4) by striking “given.” at the end of the first sentence and inserting “given or, in cases under paragraph (4), \$10,000 for each such violation.”

(5) in the second sentence, by inserting “in cases under paragraphs (1), (2), and (3),” after “In addition,”; and

(6) by inserting after the second sentence the following new sentence: “In cases under paragraph (4), such a person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b), determined without re-

gard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose."

(b) **AUTHORIZATION TO ACT.**—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is amended by striking the period at the end and inserting ", except that with respect to a proceeding relating to a State health program, the Secretary may initiate such a proceeding at such time and under such procedures as the Secretary determines appropriate unless, within 1 year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States."

(c) **EFFECTIVE DATES.**—

(1) The amendments made by subsection (a) shall apply to remuneration offered, paid, solicited, or received before, on, or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

**SEC. 8624. TECHNICAL AMENDMENT RELATED TO TAXES ON CERTAIN HEALTH CARE ITEMS AND SERVICES.**

(a) **IN GENERAL.**—Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking the period at the end and inserting "not otherwise subject to a tax described in this subsection."

(b) **EFFECTIVE DATE.**—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective January 1, 1994.

(2) In the case of a State which the Secretary of Health and Human Services determines requires State legislation in order to avoid a reduction in Federal financial participation under section 1903(a) of the Social Security Act as a result of the amendment made by subsection (a), the State shall not be subject to such a reduction 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 the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

**SEC. 8625. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS UNDER THE MEDICAID PROGRAM.**

(a) **IN GENERAL.**—Section 1902(a)(9) (42 U.S.C. 1396a(a)(9)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(D) that any mammography paid for under such plan must be conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act."

(b) **EFFECTIVE DATE.**—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to mammography furnished by a facility during calendar quarters beginning on or after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its

failure to meet this additional requirement 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 the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

**SEC. 8626. NURSING HOME REFORM.**

(a) **SUSPENSION OF DECERTIFICATION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.**—

(1) **IN GENERAL.**—Section 1919(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: “, unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;”.

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

(b) **REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS ON USE OF DRUGS.**—

(1) **IN GENERAL.**—Section 1919(c)(1)(D) (42 U.S.C. 1396r(c)(1)(D)) is amended by adding at the end the following sentence: “In determining whether such a consultant is qualified to conduct reviews under the preceding sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1987.

(c) **INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.**—

(1) **IN GENERAL.**—Section 1919(c)(6)(B)(i) (42 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking “\$50” and inserting “\$100”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect January 1, 1994.

(d) **DUE PROCESS PROTECTIONS FOR NURSE AIDES.**—

(1) **PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSE AIDE REGISTRY.**—Section 1919(e)(2)(B) (42 U.S.C. 1396r(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: “, but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.”.

(2) **DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.**—Section 1919(g)(1)(C) (42 U.S.C. 1396r(g)(1)(C)) is amended by striking the second sentence and inserting the following: “The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect January 1, 1994.

**SEC. 8627. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.**

Section 501(a) (42 U.S.C. 701(a)) is amended by striking “\$686,000,000 for fiscal year 1990” and inserting “\$705,000,000 for fiscal year 1994”.

## PART 2—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1990

### SEC. 8641. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect as if included in the enactment of OBRA-1990.

### SEC. 8642. CORRECTIONS RELATING TO SECTION 4401 (DRUG REBATE PROGRAM).

(a) SECTION 1927.—(1) Section 1927(a) (42 U.S.C. 1396r-8(a)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1)—

(i) by amending the second sentence to read as follows:  
“Any such agreement entered into prior to May 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate to be paid by the manufacturer under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991.”, and

(ii) in the third sentence, by striking “March” and inserting “May”;

(B) in paragraph (2)—

(i) by striking “first”, and

(ii) by striking the period at the end and inserting the following: “, except that such paragraph (and section 1903(i)(10)(A)) shall not apply to drugs dispensed before May 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.”;

(C) by amending paragraph (3) to read as follows:

“(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) and section 1903(i)(10) shall not apply to the dispensing of a covered outpatient drug if—

“(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the State plan;

“(B) the drug has been given a rating of 1-A or 1-P by the Food and Drug Administration; and

“(C)(i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(5), or

(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).”; and

(D) in paragraph (4)—

(i) by striking “In the case” and inserting “(A) In the case”;

(ii) by striking “in compliance with” and inserting “in effect under”;

(iii) by striking “such agreement provides for a minimum aggregate rebate of 10 percent of the State's total expenditures under the State plan for coverage of the manufacturer's drugs under this title” and inserting “such agreement provides for a minimum aggregate rebate of 10 percent of the sum of the amounts determined under subparagraph (B) for all of the manufacturer's drugs paid for by the State under the agreement”, and

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

“(B) The amount determined under this subparagraph with respect to a manufacturer's drug paid for by a State under an agreement described in the first sentence of subparagraph (A) is an amount equal to the product of—

(i) the average manufacturer's price for such drug; and

- (ii) the number of dosage units of such drug paid for by the State under such agreement.”
- (2) Section 1927(b) (42 U.S.C. 1396r-8(b)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—
- (A) in paragraph (2)(A), by striking “during” and inserting “for”;
- (B) in paragraph (3)(A)—
- (i) in clause (i), by striking the open parenthesis before “for” and the close parenthesis after “drugs”;
- (ii) in clause (i), by striking “subsection (c)(2)(B)” for “covered outpatient drugs” and inserting “subsection (c)(1)(C) for each covered outpatient drug”, and
- (iii) in clause (ii), by inserting a comma after “this section” and after “1990”;
- (C) in paragraph (3)(B)—
- (i) by striking “\$100,000” and inserting “\$10,000”;
- (ii) by striking “about charges or prices”, and
- (iii) by striking “or knowingly provides false information”;
- (D) in paragraph (3)(C)—
- (i) in clause (i)—
- (I) by striking “increased by”, and
- (II) by striking “, and, if” and inserting “, If”;
- (ii) in clause (ii), by striking “under this section” and inserting “under this section, or a wholesaler or direct seller.”;
- (iii) in clause (iii), by inserting “under subparagraph (A) or (B)” after “provides false information”, and
- (iv) in clause (ii), by striking “Such civil money penalties are” and inserting “Any such civil money penalty shall be”;
- (E) in paragraph (3)(D), by striking “wholesaler,” the first time it appears and inserting “wholesaler or the”; and
- (F) in paragraph (4)(B)(i), by adding at the end the following new sentence: “Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State’s right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.”
- (3) Section 1927(d)(3) (42 U.S.C. 1396r-8(d)(3)), as inserted by section 4401(a)(3) of OBRA-1990 and as amended by section 13602 of OBRA-1993, is amended to read as follows:
- “(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.”
- (4) Section 1927(g) (42 U.S.C. 1396r-8(g)) is amended—
- (A) by amending paragraph (1) to read as follows:
- “(1) REQUIREMENT FOR DRUG USE REVIEW PROGRAM.—Each State shall provide, by not later than January 1, 1993, for a drug use review program for covered outpatient drugs (other than drugs dispensed to residents of nursing facilities) consistent with standards established by the Secretary that—
- “(i) meets the requirements of paragraph (2), and
- “(ii) is intended to assure that prescriptions for such drugs are appropriate, medically necessary, and not likely to lead to adverse medical results.”;
- (B) in paragraph (2)—
- (i) by amending the matter before subparagraph (A) to read as follows:
- “(2) REQUIREMENTS.—
- (ii) by amending subparagraph (A) to read as follows:
- “(A) PROSPECTIVE DRUG USE REVIEW.—Each drug use review program shall provide for a review of drug therapy before each prescription is filled or delivered to an individ-



ual receiving benefits under this title (including counseling by pharmacists under standards established under applicable State law). Nothing in this paragraph shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation."

(iii) in subparagraph (C) —

(I) by striking "APPLICATION OF STANDARDS. —" and inserting "STANDARDS. — (i)",

(II) by striking "and literature referred to in subsection (1)(B)" and inserting "described in clause (ii)",

(III) by striking "including but not limited to" and inserting "Such assessment shall include",

(IV) by striking "abuse/misuse and, as necessary, introduce remedial strategies," and inserting "abuse or misuse and introduce remedial strategies", and

(V) by adding at the end the following new clause:

"(ii) The compendia described in this clause are the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information, and the American Medical Association Drug Evaluations.", and

(iv) by amending subparagraph (D) to read as follows:

"(D) EDUCATIONAL PROGRAM. — The program shall educate (directly or by contract) pharmacists, physicians, and other individuals prescribing or dispensing covered outpatient drugs under the State plan on common drug therapy problems in order to improve prescribing or dispensing practices."

(C) in paragraph (3) —

(i) in subparagraph (A), by striking "(hereinafter" and all that follows and inserting "(in this paragraph referred to as the 'DUR Board')."

(ii) in subparagraph (B), by striking "51 percent" and all that follows and inserting "50 percent licensed and actively practicing physicians and at least 1/3 but not more than 50 percent licensed and actively practicing pharmacists."

(iii) by amending subparagraph (C) to read as follows:

"(C) RESPONSIBILITIES. — The responsibilities of the DUR Board shall include the following:

"(i) Carrying out retrospective drug use review pursuant to paragraph (2)(B).

"(ii) Establishing and applying standards for drug use review described in paragraph (2)(C).

"(iii) Implementing educational programs described in paragraph (2)(D).

"(iv) Conducting ongoing evaluations of the effectiveness of its programs and activities in improving the quality and safety of drug therapy for individuals receiving benefits under the State plan."; and

(D) by amending subparagraph (D) to read as follows:

"(4) ANNUAL REPORT. — Each State shall submit a report each year to the Secretary on the nature and scope of the drug use review program under this subsection. Such report shall include an estimate of cost savings resulting from operation of such program."

(5) Section 1927(h) (42 U.S.C. 1396r-8(h)) is amended to read as follows:

"(h) ENCOURAGING ELECTRONIC CLAIMS MANAGEMENT. — The Secretary shall encourage each single State agency under this title to establish, as its principal means of processing claims for covered outpatient drugs, a point-of-sale electronic claims management system for the purpose of verifying eligibility, transmitting data on claims, and assisting pharmacists and other authorized persons in applying for and receiving payment under the State plan."

(6) Section 1927(i) (42 U.S.C. 1396r-8(i)) is amended to read as follows:

"(i) ANNUAL REPORT ON REBATE PROGRAM.—Not later than May 1 of each year, the Secretary shall submit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of the rebate agreements required for covered outpatient drugs under this section in the preceding fiscal year, and shall include in the report such information in addition to the information required to be reported under section 601(d) of the Veterans Health Care Act of 1992 as the Secretary considers appropriate."

(7) Section 1927(j) (42 U.S.C. 1396r-8(j)), as inserted by section 4401(a)(3) of OBRA-1990, is amended to read as follows:

"(j) EXEMPTION FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS AND HOSPITALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of this section shall not apply with respect to covered outpatient drugs dispensed by—

"(A) a health maintenance organization; or

"(B) a hospital that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs."

(8) Section 1927(k) (42 U.S.C. 1396r-8(k)), as inserted by section 4401(a)(3) of OBRA-1990, is amended—

(A) in paragraph (2)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking "paragraph (5)" and inserting "subparagraph (D)";

(ii) in subparagraph (A)—

(I) in clause (i), by striking "for safety and effectiveness" and by striking "or which is approved under section 505(j) of such Act"; and

(II) by striking "and" at the end;

(iii) in subparagraph (B)—

(I) in clause (i), by striking "prescription," and inserting "prescription";

(II) in clause (ii), by striking ", and" and inserting "; and"; and

(III) by striking "and" at the end;

(iv) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law);"

(B) in subparagraph (H) of paragraph (3), by inserting "services" after "dialysis";

(C) by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively;

(D) by amending paragraph (4), as so redesignated, to read as follows:

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug"; and

(E) in paragraph (6), as so redesignated—

(i) in subparagraph (A)(i), by striking "paragraph (5)" and inserting "paragraph (2)(D)";

(ii) in subparagraph (A)(ii), by inserting "or product licensing application" after "application";

(iii) in subparagraph (A)(iv), by inserting "or product licensing application" after "application";

(iv) in subparagraph (A)(iv), by striking "distributers" and inserting "distributors";

(v) in subparagraph (C)(i), by striking "pharmaceutically" and inserting "pharmaceutically"; and

(vi) in subparagraph (C)(iii), by striking ", provided that" and inserting "if".

(b) SECTION 1903.—

(1) ENHANCED MATCH.—Section 1903(a) (42 U.S.C. 1396b(a)) is amended—

(A) by striking the period at the end of paragraph (7) and inserting "; plus"; and

(B) by adding at the end the following new paragraph:  
 "(8) 75 per centum of so much of the sums expended under the State plan during calendar years 1991 through 1993 as the Secretary determines attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g)."

(2) CONFORMING AMENDMENTS.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(A) by striking "and" at the end of subparagraph (C) and inserting "plus"; and

(B) by striking subparagraph (D).

(c) FUNDING.—Section 4401(b)(2) of OBRA-1990 is amended by striking the semicolon and all that follows and inserting a period.

(d) DEMONSTRATION PROJECTS.—Section 4401(c)(1) of OBRA-1990 is amended—

(1) in subparagraph (A), by striking "1992" and inserting "1993";

(2) in subparagraph (A), by striking "10" and inserting "5";

(3) in subparagraph (C), by striking "regiment" and inserting "regimen"; and

(4) in subparagraph (D), by striking "1994" and inserting "1995".

(e) STUDIES.—Section 4401(d) of OBRA-1990 is amended—

(1) in paragraph (1)(A), by striking "other institutional facilities," and inserting "nursing facilities, intermediate care facilities for the mentally retarded,"

(2) in paragraph (1)(B), by striking "under this subsection" and inserting "under this paragraph";

(3) in paragraph (1)(B)(i), by striking "under this section" and inserting "under section 1927 of the Social Security Act";

(4) in paragraph (1)(B)(ii)—

(A) by striking "drug use review" the second time it appears and inserting "the type of drug use review that is"; and

(B) by striking "under this section" and inserting "under such section";

(5) in paragraph (1)(B)(iii), by striking "under this title" and inserting "under title XIX of the Social Security Act";

(6) in paragraph (1)(C)—

(A) by striking "May 1, 1991" and inserting "May 1, 1992", and

(B) by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(7) in paragraph (2)—

(A) by striking "By not later than May 1 of each year, the Comptroller" and inserting "The Comptroller";

(B) by striking "Committees on Aging of the Senate and House of Representatives" and inserting "Committee on Aging of the Senate";

(C) by striking "an annual report" and inserting "a report"; and

(D) by striking "retail and";

(8) in paragraph (3)—

(A) in subparagraph (A), by striking ", acting in consultation with the Comptroller General,";

(B) by indenting subparagraph (B) an additional 2 ems;

(C) in subparagraph (B), by striking "December 31, 1991, the Secretary and the Comptroller General" and inserting "June 1, 1993, the Secretary"; and

(D) by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(9) in paragraph (4)—

(A) in subparagraph (A), by striking "each" and by striking the semicolon and inserting a comma;

(B) in subparagraph (B), by striking "December 31, 1991" and inserting "January 1, 1993"; and

(C) in subparagraph (B), by striking "Committees on Aging of the Senate and the House of Representatives" and inserting "Committee on Aging of the Senate";

(10) in paragraph (5)—

(A) by striking "Secretary of Health and Human Services" and inserting "Comptroller General";

(B) by striking "under this title" and inserting "under State medicaid programs"; and

(C) by striking the second sentence and inserting the following new sentence: "The Comptroller General shall report to the Congress on the study not later than January 1, 1993."; and

(11) by striking paragraph (6).

**SEC. 8643. CORRECTIONS RELATING TO SECTION 4402 (ENROLLMENT UNDER GROUP HEALTH PLANS).**

Section 4402(b) of OBRA-1990 is amended by striking "1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv))" and inserting "1903(u)(1)(D)(iv) (42 U.S.C. 1396b(u)(1)(D)(iv))".

**SEC. 8644. CORRECTIONS RELATING TO SECTION 4501 (LOW-INCOME MEDICARE BENEFICIARIES).**

(a) Section 1902(a)(10)(E)(iii) (42 U.S.C. 1396a(a)(10)(E)(iii)), as added by section 4501(b)(3) of OBRA-1990, is amended by striking "cost sharing" and inserting "cost-sharing".

(b) Section 1905(p)(4)(B) (42 U.S.C. 1396d(p)(4)(B)), as amended by section 4501(c)(1) of OBRA-1990, is amended by striking "1902(a)(10)(E)(iii)" and inserting "section 1902(a)(10)(E)(iii)".

**SEC. 8645. CORRECTIONS RELATING TO SECTION 4601 (CHILD HEALTH).**

(a) Section 1902(a)(10)(A)(i)(VII) (42 U.S.C. 1396a(a)(10)(A)(i)(VII)), as added by section 4601(a)(10)(A)(iii) of OBRA-1990, is amended by striking "family;" and inserting "family; and".

(b) Section 1902(l) (42 U.S.C. 1396a(l)), as amended by section 4601(a)(1)(C) of OBRA-1990, is amended—

(1) in paragraph (1)(C), by striking "children" after "(C)";

(2) in paragraph (3), by striking "(a)(10)(A)(i)(VII)," and inserting "(a)(10)(A)(i)(VII)"; and

(3) in paragraph (4)(B), by inserting a comma before "(a)(10)(A)(i)(VI)."

(c) Section 1925 (42 U.S.C. 1396r-6), as amended by section 4601(a) of OBRA-1990, is amended—

(1) in subsection (a)(3)(C), by striking "(i)(VI)" and inserting "(i)(VI).", and

(2) in subsection (b)(3)(C)(i), by striking "(i)(IV) (i)(VI) (i)(VII)," and inserting "(i)(IV), (i)(VI), (i)(VII)."

**SEC. 8646. CORRECTIONS RELATING TO SECTION 4602 (OUTREACH LOCATIONS).**

(a) Section 1902(a)(55) (42 U.S.C. 1396a(a)(55)), as added by section 4602(a)(3) of OBRA-1990, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "subsection" and inserting "paragraph", and

(B) by striking "(a)" each place it appears; and

(2) in subparagraph (A), by striking "1905(1)(2)(B)" and inserting "1905(l)(2)(B)".

(b) Section 1902(l)(1) (42 U.S.C. 1396a(l)(1)) is amended by striking "who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and".

**SEC. 8647. CORRECTIONS RELATING TO SECTION 4604 (PAYMENT FOR HOSPITAL SERVICES FOR CHILDREN UNDER 6 YEARS OF AGE).**

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in clause (X) in the matter following subparagraph (F) by striking "under one year of age" and inserting "under 6 years of age".

(b) Section 1902(s) (42 U.S.C. 1396a(s)), as added by section 4604(a) of OBRA-1990, is amended to read as follows:

"(s) In order to meet the requirements of subsection (a)(56), the State plan must provide that payments to hospitals under the plan for inpatient services furnished to infants who have not attained the age of 1 year (or, in the case of such an individual who is an inpatient on his first birthday, until such individual is discharged) shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise); provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay;

"(2) not be limited by the imposition of day limits; and

"(3) not be limited by the imposition of dollar limits (other than dollar limits resulting from prospective payments as adjusted pursuant to paragraph (1))."

(c) Section 1923(a)(2)(C) (42 U.S.C. 1396r-4(a)(2)(C)) is amended by striking "provided on or after July 1, 1989," and all that follows and inserting the following: "involving exceptionally high costs or exceptionally long lengths of stay—

"(i) for individuals under 1 year of age, in the case of services provided on or after July 1, 1989, and on or before June 30, 1991; and

"(ii) for individuals under 6 years of age, in the case of services provided on or after July 1, 1991."

**SEC. 8648. CORRECTIONS RELATING TO SECTION 4703 (PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS).**

(a) Section 1923(c) (42 U.S.C. 1396r-4(c)) is amended—

(1) in paragraph (2), by striking "paragraph (b)(3)" and inserting "subsection (b)(3)";

(2) by striking the period at the end of paragraph (3)(B) and inserting a comma; and

(3) in the third sentence, by striking "the payment adjustment described in paragraph (2)" and inserting "a payment adjustment described in paragraph (2) or (3)".

(b) Effective December 22, 1987, section 1923(d)(2)(A)(iii) (42 U.S.C. 1396r-4(d)(2)(A)(ii)) is amended by striking "the date of the enactment of this Act" and inserting "December 22, 1987".

(c) Section 4703(d) of OBRA-1990 is amended by striking "412(a)(2)" and inserting "4112(a)(2)".

**SEC. 8649. CORRECTIONS RELATING TO SECTION 4704 (FEDERALLY-QUALIFIED HEALTH CENTERS).**

(a) Clause (ix) of section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as added by section 4704(b)(1)(C) of OBRA-1990, is amended—

- (1) by striking "of such center" the first place it appears;
- (2) by striking "federally qualified" and inserting "Federally-qualified";
- (3) by inserting "section" before "1905(a)(2)(C)"; and
- (4) by moving such clause 2 ems to the left.

(b) Section 1903(m)(2)(B) (42 U.S.C. 1396b(m)(2)(B)), as amended by section 4704(b)(2) of OBRA-1990, is amended in the matter preceding clause (i) by striking "except with respect to clause (ix) of subparagraph (A)," and inserting "(except with respect to clause (ix) of such subparagraph)".

(c) Section 1905(l)(2) (42 U.S.C. 1396d(l)(2)), as amended by section 4704(c) of OBRA-1990 and sections 13606(a) and 13631(f)(2)(B) of OBRA-1993, is amended—

(1) in subparagraph (A)—

(A) by striking "Federally-qualified" and inserting "Federally-qualified", and

(B) by striking "an patient" and inserting "a patient", and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "a entity" and inserting "an entity",

(B) by striking "or" at the end of clause (iii),

(C) by striking the semicolon at the end of clause (iv) and inserting ", or", and

(D) by striking "and includes an outpatient health program" and all that follows through "for good cause shown." and inserting the following:

"(v) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638) or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services. In applying clause (ii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown."

**SEC. 8650. CORRECTIONS RELATING TO SECTION 4708 (SUBSTITUTE PHYSICIANS).**

(a) Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)), as added by section 4708(a)(3) of OBRA-1990 and as amended by section 13631(e)(1) of OBRA-1993, is amended—

(1) in the matter preceding subparagraph (A), by striking "except that" and inserting "except that (subject to section 1903(i)(12))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) payment may be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the State for such services includes the second physician's unique identifier (provided under the system established under subsection (x)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician; and"

(b) The amendments made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 8651. CORRECTIONS RELATING TO SECTION 4711 (HOME AND COMMUNITY CARE FOR FRAIL ELDERLY).

(a) Section 1929 (42 U.S.C. 1396t), as added by section 4711(b) of OBRA-1990, is amended—

(1) in subsection (c)(2)(F), by moving the second sentence 2 ems to the right;

(2) in subsection (d)(2)(F)(ii), by striking "they manage" and inserting "it manages";

(3) in subsection (d)(2)(F)(iii), by inserting "the agency or organization" after "(iii)";

(4) in subsection (e)(2)(B), by striking "fiscal year 1989" and inserting "fiscal year 1990";

(5) in subsection (f)(1), by striking "Community care" and inserting "community care";

(6) in subsection (g)(1)—

(A) by striking "SETTINGS" and inserting "SETTING"; and

(B) in subparagraph (B), by striking "setting." and inserting "setting in which home and community care under this section is provided.";

(7) in subsection (g)(2), by striking "community care" the second, third, and fourth place it appears and inserting "home and community care";

(8) in subsection (h)(1)—

(A) by amending subparagraph (A) to read as follows: "(A) a nonresidential setting that serves 8 or more individuals; or"; and

(B) in subparagraph (B)—

(i) by striking "more than 8" and inserting "8 or more"; and

(ii) by inserting "(other than merely board)" after "personal services";

(9) in subsection (h)(2), by striking "community care" the second and third place it appears and inserting "home and community care";

(10) in the first sentence of subsection (j)(1)(A), by striking "the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty" and inserting "the State may provide for a civil money penalty and, in addition, may terminate the provider's participation under the State plan";

(11) in the first sentence of subsection (j)(2)(B), by striking "the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C)" and inserting "the Secretary may provide for a civil money penalty under subparagraph (C) and, in addition, terminate the provider's participation under the State plan";

(12) in subsection (k)(1)(A)(i)—

(A) by striking "(d)(2)(E)" and inserting "(d)(2)", and

(B) by striking "settings." and inserting "settings).";

(13) in subsection (l), by striking "State wideness" and inserting "Statewideness";

(14) in paragraph (2) of subsection (m) by striking "Individual Community Care Plan" and inserting "individual community care plan"; and

(15) by adding at the end the following new subsection:

"(n) COMMUNITY CARE SETTING DEFINED.—In this section, the term "community care setting" means a small community care setting (as defined in subsection (g)(1)) or a large community care setting (as defined in subsection (h)(1))."

(b) Section 1905(r)(5) (42 U.S.C. 1396d(r)(5)) is amended by striking "section 1905(a)" and inserting "subsection (a) (other than services described in paragraph (22) or (23) of such subsection)".

(c) Section 4711(f) of OBRA-1990 is amended by striking "Act" each place it appears and inserting "section".

**SEC. 8652. CORRECTIONS RELATING TO SECTION 4712 (COMMUNITY SUPPORTED LIVING ARRANGEMENTS).**

(a) Section 1930 (42 U.S.C. 1396u), as added by section 4712(b)(2) of OBRA-1990, is amended—

(1) in subsection (b)—

(A) by striking “title the term,” and inserting “title, the term”;

(B) by striking “guardian” and inserting “guardian or”, and

(C) by striking “3 other” and inserting “3”;

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “program,” and inserting “program”, and

(B) in the second sentence, by striking “plan” each place it appears and inserting “program”; and

(3) in subsection (i), by striking “FUNDS” and inserting “FUNDS”.

(b) Section 4712(c) of OBRA-1990 is amended—

(1) in paragraph (1), by inserting “of section 1930 of the Social Security Act” after “subsection (h)”; and

(2) in paragraph (2), by striking “this section” and inserting “such section”.

**SEC. 8653. CORRECTION RELATING TO SECTION 4713 (COBRA CONTINUATION COVERAGE).**

(a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F) by striking “COBRA continuation premiums” and inserting “COBRA premiums”.

(b) Section 1902(u)(3) (42 U.S.C. 1396a(u)(3)), as added by section 4713(a)(2) of OBRA-1990, is amended by striking “title VI” and inserting “part 6 of subtitle B of title I”.

**SEC. 8654. CORRECTION RELATING TO SECTION 4716 (MEDICAID TRANSITION FOR FAMILY ASSISTANCE).**

Section 4716(a) of OBRA-1990 is amended by striking “AMENDMENTS.—Subsection (f) of section” and inserting “IN GENERAL.—Section”.

**SEC. 8655. CORRECTIONS RELATING TO SECTION 4718 (MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 1-MEMBER FAMILIES).**

Section 4718(b) of OBRA-1990 is amended by striking “June 1, 1989” and inserting “July 1, 1989”.

**SEC. 8656. CORRECTIONS RELATING TO SECTION 4723 (MEDICAID SPEND-DOWN OPTION).**

Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)), as amended by section 4723(a) of OBRA-1990, is amended by striking “to the State, provided that” and inserting “to the State if”.

**SEC. 8657. CORRECTIONS RELATING TO SECTION 4724 (OPTIONAL STATE DISABILITY DETERMINATIONS).**

Section 1902(v) (42 U.S.C. 1396a(v)), as added by section 4724 of OBRA-1990, is amended—

(1) by striking “(v)(1)” and inserting “(v)”; and

(2) by striking “of the Social Security Act”.

**SEC. 8658. CORRECTION RELATING TO SECTION 4732 (SPECIAL RULES FOR HEALTH MAINTENANCE ORGANIZATIONS).**

Section 1903(m)(2)(F)(i) (42 U.S.C. 1396b(m)(2)(F)(i)), as amended by section 4732(b)(2)(B) of OBRA-1990, is amended by striking “or” before “with an eligible organization”.

**SEC. 8659. CORRECTIONS RELATING TO SECTION 4747 (COVERAGE OF HIV-POSITIVE INDIVIDUALS).**

Section 4747 of OBRA-1990 is amended—

(1) in subsection (a)—

(A) by striking “services described in subsection (c)” and inserting “services described in subsection (b)(1) (and may provide coverage for services described in subsection (b)(2))”, and



(B) by striking "to individuals" and inserting "to individuals who are not otherwise eligible for medical assistance under such title."

(2) by amending subsection (b) to read as follows:

"(b) SERVICES AVAILABLE UNDER A DEMONSTRATION PROJECT.—

"(1) REQUIRED SERVICES.—

"(A) IN GENERAL.—Services described in this paragraph are the following:

"(i) General and preventive medical care services, including outpatient care, physician visits, and clinic visits.

"(ii) Other laboratory and X-ray services.

"(iii) Prescription drugs (including costs associated with the intravenous administration of prescription drugs).

"(iv) Case management services.

"(B) SCOPE OF SERVICES.—The services described in subparagraph (A) may be limited under a demonstration project only on the basis of medical necessity or the appropriateness of such services.

"(2) OPTIONAL SERVICES.—

"(A) IN GENERAL.—Services described in this paragraph are the following:

"(i) Counseling and social services.

"(ii) Substance abuse treatment.

"(iii) Health education services.

"(iv) Dental services.

"(B) SCOPE OF SERVICES.—A demonstration project may limit the amount, duration, or scope of services described in subparagraph (A)."

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "with a hospital" and all that follows through "other entity have" and inserting "with an entity which has", and

(ii) by striking "and have access" and all that follows through the end and inserting "and has access to data on comparable patients who have so tested and who are not participating in the demonstration project.", and

(B) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (2);

(4) in subsection (d), by striking "paragraph (3)" and "paragraph (1)" and inserting "subsection (b)" and "subsection (a)", respectively; and

(5) in subsection (f), by adding at the end the following new sentence: "Such sums as may be available under the limitation set forth in this paragraph for fiscal year 1993 shall be available until expended."

**SEC. 8660. CORRECTION RELATING TO SECTION 4751 (ADVANCED DIRECTIVES).**

Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)), as amended by section 4751(b)(1) of OBRA-1990, is amended—

(1) by striking "1902(w)" and inserting "1902(w) and"; and

(2) by striking "1902(a)" and inserting "1902(w)".

**SEC. 8661. CORRECTIONS RELATING TO SECTION 4752 (PHYSICIANS' SERVICES).**

(a) Paragraph (59) of section 1902(a) (42 U.S.C. 1396a(a)), as added by section 4752(c)(1)(C) of OBRA-1990 and as redesignated by section 13623(a)(6) of OBRA-1993, is amended by striking "subsection (v)" and inserting "subsection (x)".

(b) Section 1903(i)(12) (42 U.S.C. 1396b(i)(12)), as inserted by section 4752(e) of OBRA-1990 and as redesignated by section 13631(c)(3) of OBRA-1993, is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows:

- "(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in family practice or pediatrics by the medical specialty boards recognized by the American Osteopathic Association,";
- (2) by amending clause (i) of subparagraph (B) to read as follows:

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty boards recognized by the American Osteopathic Association,"; and

- (3) in subparagraphs (A) and (B)—

(A) by striking "or" at the end of clause (v);  
 (B) by redesignating clause (vi) as clause (vii); and  
 (C) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or"

**SEC. 8662. CORRECTIONS RELATING TO SECTION 4801 (NURSING HOME REFORM).**

(a) Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I)), as amended by section 4801(e)(3) of OBRA-1990, is amended by striking "not to exceed" before "14 days".

(b) Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)), as amended by section 4801(a)(4) of OBRA-1990, is amended by striking the comma before "or a new competency evaluation program."

(c) Section 1919(b)(5)(G) (42 U.S.C. 1396r(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(d) Section 1919(f)(2)(B)(i) (42 U.S.C. 1396r(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii))."

(e) Section 1919(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(f) Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(g) Section 4801(a)(6)(B) of OBRA-1990 is amended—

(1) by striking "The amendments" and inserting "(i) The amendments";

(2) by redesignating clauses (i) through (v) as subclauses (I) through (V); and

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

"(ii) Notwithstanding clause (i) and subject to section 1919(f)(2)(B)(iii)(I) of the Social Security Act (as amended by subparagraph (A)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility described in clause (i) if, during the previous 2 years, none of the subclauses of clause (i) applied to the facility."

**SEC. 8663. OTHER TECHNICAL CORRECTIONS.**

(a) Section 1905(o)(1)(A) (42 U.S.C. 1396d(o)(1)(A)) is amended—

(1) in the first sentence, by striking "intermediate care facility services" and inserting "for nursing facility services or intermediate care facility services for the mentally retarded"; and

(2) in the second sentence, by striking "or intermediate care facility" and inserting "(for purposes of title XVIII), a nursing facility, or an intermediate care facility for the mentally retarded".

(b) Section 1915(d) (42 U.S.C. 1396n(d)) is amended—

(1) by striking “skilled nursing facility or intermediate care facility” each place it appears in paragraphs (1), (2)(B), and (2)(C) and inserting “nursing facility”;

(2) in paragraph (2)(B)(i), by striking “skilled nursing or intermediate care facility” and inserting “nursing facility”;

(3) in paragraph (5)(A), by striking “under” the second place it appears and inserting “(or, in the case of waiver years beginning on or after October 1, 1990, with respect to nursing facility services and home and community-based services) under”; and

(4) in paragraph (5)(B)—

(A) in clause (i), by striking “furnished” and inserting “(or, with respect to waiver years beginning on or after October 1, 1990, for nursing facility services) furnished”; and

(B) in clause (iii)(I), by striking “(regardless” and inserting “(or, with respect to waiver years beginning on or after October 1, 1990, which comprise nursing facility services) (regardless”.

(c)(1) Section 1924(h)(1)(A) (42 U.S.C. 1396r-5(h)(1)(A)) is amended to read as follows:

“(A)(i) is in a medical institution or nursing facility; or

“(ii) is described in section 1902(a)(10)(A)(ii)(VI) (except that for purposes of subsection (d), such term shall include such individual only if the State elects to apply such subsection to the individual); and”.

(2) The amendments made by this subsection shall apply to home or community-based services furnished on or after January 1, 1994.

### **PART 3—MISCELLANEOUS AND TECHNICAL CORRECTIONS RELATING TO OBRA-1993**

#### **SEC. 8671. EFFECTIVE DATE.**

Except as otherwise provided, the amendments made by this part shall take effect as if included in the enactment of OBRA-1993.

#### **SEC. 8672. CORRECTIONS RELATING TO SECTION 13601 (PERSONAL CARE SERVICES).**

Section 13601(a)(3) of OBRA-1993 is amended by striking “comma” and inserting “period”.

#### **SEC. 8673. CORRECTIONS RELATING TO SECTION 13604 (EMERGENCY SERVICES FOR ALIENS).**

Section 13604(b)(2) of OBRA-1993 is amended to read as follows:

“(2) The Secretary of Health and Human Services shall not disallow expenditures made under section 1903(v)(2) of the Social Security Act for care and services relating to organ transplant procedures furnished before the date of the enactment of this Act.”

#### **SEC. 8674. CORRECTIONS RELATING TO SECTION 13611 (TRANSFERS OF ASSETS; TREATMENT OF CERTAIN TRUSTS).**

(a) **EXEMPTION FROM ASSET TRANSFER RESTRICTIONS.**—Section 1917(c)(2)(B) (42 U.S.C. 1396p(c)(2)(B)), as amended by section 13611(a)(2) of OBRA-1993, is amended—

(1) by striking “or” at the end of clause (iii);

(2) by striking the semicolon at the end of clause (iv) and inserting “, or”; and

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

“(iv) were transferred to a trust described in subsection (d)(4)(B) or subsection (d)(4)(C).”

(b) **RESTRICTION ON ABILITY OF TRUSTEE TO DISTRIBUTE CORPUS.**—Section 1917(d)(4)(B) (42 U.S.C. 1396p(d)(4)(B)), as added by section 13611(b) of OBRA-1993, is amended—

(1) by striking “and” at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ", and"; and

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

"(iv) no payment may be made from any portion of the corpus of the trust to any person other than the individual."

(c) INCOME PLACED INTO TRUST NOT COUNTED FOR PURPOSES OF ELIGIBILITY.—Section 1917(d) (42 U.S.C. 1396p(d)), as added by section 13611(b) of OBRA-1993, is amended—

(1) by striking the closing quotation mark and the second period at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, any income placed into a trust described in paragraph (4)(B) that is established for the benefit of the individual shall not be considered income of the individual."

(d) OTHER TECHNICAL AMENDMENTS.—(1) Section 1917(c)(2)(C)(iii) (42 U.S.C. 1396p(c)(2)(C)(iii)), as added by section 13611(a)(2)(C)(iv) of OBRA-1993, is amended by striking "all".

(2) Section 1917(c)(4) (42 U.S.C. 1396p(c)(4)), as amended by section 13611(a)(2)(F), is amended by striking "resources" and inserting "assets".

(3) Section 13611(e)(3) of OBRA-1993 is amended—

(A) by striking "amendment made by subsection (b)" and inserting "amendments made by subsections (a) and (b)"; and

(B) by striking "such amendment" and inserting "such amendments".

**SEC. 8675. CORRECTIONS RELATING TO SECTION 13612 (MEDICAID ESTATE RECOVERIES).**

(a) CLARIFICATION OF DISREGARD OF ASSET RULES.—Section 1902(r)(2) (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraph (A), except as provided in clause (ii), a State plan may not provide pursuant to this paragraph for disregarding any assets—

"(I) to the extent that payments are made under a long-term care insurance policy; or

"(II) because an individual has received (or is entitled to receive) benefits for a specified period of time under a long-term care insurance policy.

"(ii) Clause (i) shall not apply to State plan provisions that are approved as of August 1, 1994."

(b) ESTATE RECOVERIES.—Section 1917(b)(1) (42 U.S.C. 1396p(b)(1)), as amended by section 13612(a) of OBRA-1993, is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows:

"(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except that the State shall comply with the following:

(2) by amending subparagraph (A) to read as follows:

"(A) In the case of an individual described in subsection (a)(1)(B), the State—

(i) shall seek adjustment or recovery upon the sale of property subject to a lien imposed on account of medical assistance paid on behalf of the individual, and

(ii) may seek adjustment or recovery from the individual's estate."

(3) in subparagraph (B)—

(A) in clause (i), by striking "or" at the end and inserting "and"; and

(B) in clause (ii), by inserting "additional" after "any"; and

(4) in subparagraph (C), by striking the period at the end and inserting the following: ", and shall notify any individual who seeks to purchase such a policy (or who has purchased such a policy as of the date of the enactment of the Guaranteed Health Insurance Act of 1994) of the State's obligation to seek adjustment or recovery under this clause."

**SEC. 8676. CORRECTIONS RELATING TO SECTION 13622 (LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES).**

(a) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)), as amended by section 13622(a) of OBRA-1993, is amended by striking "(as defined in section 607(1))" and inserting "(including any such plan meeting the definition of section 607(1))".

(b) Section 1902(a)(25)(I) (42 U.S.C. 1396a(a)(25)(I)), as added by section 13622(c) of OBRA-1993, is amended to read as follows:

"(I) assurances satisfactory to the Secretary that the State has in effect laws providing that, to the extent that payment has been made under the State plan of that or any other State for medical assistance for health care items or services furnished to an individual, the State paying such medical assistance is considered to have acquired the rights of such individual to payment by any third party legally liable to pay for such items or services."

**SEC. 8677. CORRECTIONS RELATING TO SECTION 13623 (MEDICAL CHILD SUPPORT).**

(a)(1) Title XIX (42 U.S.C. 1396 et seq.) is amended by redesignating section 1908, as added by section 13623(b) of OBRA-1993, as section 1909.

(2) Paragraph (60) of section 1902(a) (42 U.S.C. 1396a(a)), as added by section 13623(a) of OBRA-1993, is amended by striking "section 1908" and inserting "section 1909".

(b) Subsection (b) of section 1909, as redesignated by subsection (a), is amended by striking "as defined in section 607(1)" and inserting "including any such plan meeting the definition of section 607(1)".

**SEC. 8678. CORRECTIONS RELATING TO SECTION 13624 (PHYSICIAN REFERRALS).**

Section 13624(b) of OBRA-1993 is amended by striking "on or".

**SEC. 8679. CORRECTIONS RELATING TO SECTION 13631 (MEDICAID PEDIATRIC IMMUNIZATION PROVISIONS).**

(a) Section 1902(a)(32)(D) (42 U.S.C. 1396a(a)(32)(D)), as added by section 13631(e)(1) of OBRA-1993, is amended by striking "(which price includes a reasonable amount to cover shipping and the handling of returns)" and inserting "plus a reasonable amount to cover shipping and the handling of returns".

(b) Section 1928(d)(3)(B) (42 U.S.C. 1396s(d)(3)(B)), as added by section 13631(b)(2) of OBRA-1993, is amended by striking "and any applicable excise tax established under section 4131 of the Internal Revenue Code of 1986".

**SEC. 8680. CORRECTIONS RELATING TO SECTION 13643 (DEMONSTRATION PROJECTS).**

Effective as if included in the enactment of OBRA-1990, section 4745 of such Act is amended in subsection (d) by striking "shall commence not later than July 1, 1991 and".

## Subtitle H—Provision Relating to AFDC Program

**SEC. 8701. ENFORCEMENT OF MAINTENANCE-OF-EFFORT REQUIREMENTS THROUGH AFDC.**

(a) STATE PLAN REQUIREMENT.—Section 402(a) (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following new paragraph:

"(46) provide assurances that the State is making payments required under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994."

(b) WITHHOLDING AMOUNTS UNPAID.—Section 403 (42 U.S.C. 603) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any other provision of this section, the Secretary shall reduce the amount of payment made to a State under this section for quarters in any fiscal year to the extent that the State fails to make the payments required for the fiscal year under part 2 of subtitle B of title VIII of the Guaranteed Health Insurance Act of 1994 in a timely manner."