

119TH CONGRESS
2D SESSION

S. _____

To combat fraud in Federal programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. ERNST introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To combat fraud in Federal programs, and for other
purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Putting an N to
5 Learning about Fraud Act”.

6 **SEC. 2. PREVENTING FRAUD IN CHILD CARE SERVICES.**

7 (a) STATE PLAN.—Section 658E of the Child Care
8 and Development Block Grant Act of 1990 (42 U.S.C.
9 9858c) is amended—

10 (1) in subsection (c)(2), by adding by striking
11 subparagraph (S) and inserting the following:

1 “(S) ATTENDANCE-BASED BILLING.—The
2 plan shall include an assurance that the lead
3 agency will provide payment under this sub-
4 chapter to a child care provider based on re-
5 corded attendance, rather than enrollment
6 alone, in the program of the provider.”; and

7 (2) by adding at the end the following:

8 “(e) TIMING OF PAYMENT.—Nothing in this sub-
9 chapter shall be construed to require a lead agency to
10 make a payment to a child care provider prior to the provi-
11 sion of child care services. The lead agency shall make
12 a payment under this subchapter to such a provider as
13 reimbursement, in a timely manner, and on the basis of
14 the provider’s provision of child care services.”.

15 (b) AUDITS.—Section 658K of the Child Care and
16 Development Block Grant Act of 1990 (42 U.S.C. 9858i)
17 is amended by adding at the end the following:

18 “(c) FEDERAL AUDITS.—Each child care provider
19 that receives a payment under this subchapter shall pre-
20 pare a record of attendance in the provider’s program and
21 of the provider’s provision of child care services, and main-
22 tain the record for a period of 7 years after the date of
23 preparation of such record. The provider shall make such
24 records available for audits by the Secretary, the Attorney

1 General, and the Comptroller General of the United
2 States.”.

3 **SEC. 3. IDENTIFYING FRAUD IN HEALTH CARE SERVICES.**

4 (a) MEDICARE.—

5 (1) IN GENERAL.—The Secretary of Health and
6 Human Services shall, not later than 60 days after
7 making a determination described in paragraph (2),
8 notify the Inspector General of the Department of
9 Health and Human Services of such determination.

10 (2) DETERMINATION.—A determination de-
11 scribed in this paragraph is a determination that—

12 (A) the aggregate amount paid under the
13 Medicare program under title XVIII of the So-
14 cial Security Act (42 U.S.C. 1395 et seq.) for
15 an item or service or items or services in a zip
16 code and county or county equivalent increased
17 by more than 100 percent in a single year; or

18 (B) the number of provider of services or
19 suppliers (as those terms are defined under sec-
20 tion 1861 of the Social Security Act (42 U.S.C.
21 1395x)) who received payment for items or
22 services furnished under the Medicare program
23 increased in a zip code and county or county
24 equivalent by more than 100 percent in a single
25 year.

1 (b) QUALIFIED HEALTH PLANS UNDER THE AMER-
2 ICAN HEALTH BENEFIT EXCHANGES.—

3 (1) IN GENERAL.—The Secretary of Health and
4 Human Services shall, not later than 60 days after
5 making a determination described in paragraph (2),
6 notify the Inspector General of the Department of
7 Health and Human Services of such determination.

8 (2) DETERMINATION.—A determination de-
9 scribed in this paragraph is a determination that—

10 (A) the aggregate amount paid under all
11 qualified health plans offered through the
12 American Health Benefit Exchanges established
13 under sections 1311 and 1321 of the Patient
14 Protection and Affordable Care Act (42 U.S.C.
15 18031, 18041) for an item or service or items
16 or services in a zip code and county or county
17 equivalent increased by more than 100 percent
18 in a single year; or

19 (B) the number of providers of services
20 who received payment for items or services
21 under such qualified health plans increased in a
22 zip code and county or county equivalent by
23 more than 100 percent in a single year.

24 (3) REQUIREMENT TO SUBMIT CERTAIN INFOR-
25 MATION.—Annually, each American Health Benefit

1 Exchange established under section 1311 or 1321 of
2 the Patient Protection and Affordable Care Act (42
3 U.S.C. 18031, 18041) shall collect from each quali-
4 fied health plan offered through such an Exchange,
5 and submit to the Secretary of Health and Human
6 Services, the information necessary for the Secretary
7 to make a determination described in paragraph (2).

8 (c) MEDICAID AND CHIP.—

9 (1) MEDICAID.—Section 1902 of the Social Se-
10 curity Act (42 U.S.C. 1396a) is amended—

11 (A) in subsection (a)—

12 (i) in paragraph (88), by striking “;
13 and” and inserting a semicolon;

14 (ii) in paragraph (89), by striking the
15 period at the end and inserting “; and”;
16 and

17 (iii) by adding after paragraph (89)
18 the following new paragraph:

19 “(90) provide that, not later than 60 days after
20 making a determination described in subsection (yy),
21 the State agency shall notify the Secretary and the
22 Inspector General of the Department of Health and
23 Human Services of such determination.”; and

24 (B) by adding at the end the following new
25 subsection:

1 “(yy) DETERMINATION OF CERTAIN INCREASED
2 PAYMENTS OR PROVIDERS IN A SINGLE YEAR.—For pur-
3 poses of subsection (a)(90), a determination described in
4 this subsection is a determination that—

5 “(1) the aggregate amount paid under the
6 State plan under this title, or under a waiver of such
7 plan, for an item or service or items or services in
8 a zip code and county or county equivalent increased
9 by more than 100 percent in a single year; or

10 “(2) the number of providers of items or serv-
11 ices who received payments for items or services fur-
12 nished in a zip code and county or county equivalent
13 under such State plan or waiver increased by more
14 than 100 percent in a single year.”.

15 (2) CHIP.—Section 2107(e)(1) of the Social
16 Security Act (42 U.S.C. 1397gg(e)(1)) is amended
17 by—

18 (A) redesignating subparagraphs (I)
19 through (W) as subparagraphs (J) through (X),
20 respectively; and

21 (B) inserting after subparagraph (H) the
22 following subparagraph:

23 “(I) Subsections (a)(90) and (yy) of sec-
24 tion 1902 (relating to determination of certain
25 increased payments or providers in a single year

1 and notification to the Secretary and the In-
2 specter General of Health and Human Serv-
3 ices).”.

4 (d) AUDIT BY THE INSPECTOR GENERAL OF HEALTH
5 AND HUMAN SERVICES.—Not later than 5 years after the
6 date of enactment of this Act, and annually thereafter,
7 the Inspector General of Health and Human Services
8 shall—

9 (1) identify, based on the results of any notifi-
10 cations received under subsection (a) or (b), or
11 under section 1902(a)(90) of the Social Security Act
12 (42 U.S.C. 1396a(a)(90)) or section 2107(e)(1)(I) of
13 such Act (42 U.S.C. 1397gg(e)(1)(I)), any program
14 or State plan or waiver (in the case of Medicaid and
15 the State Children’s Health Insurance Program)
16 under which the aggregate amount paid for an item
17 or service or items or services in a zip code and
18 county or county equivalent or the number of pro-
19 viders of items or services or suppliers, as applicable,
20 who received payments for items or services fur-
21 nished in a zip code and county or county equivalent
22 increased by at least 400 percent during the pre-
23 ceding 5-year period; and

24 (2) audit any such program, State plan, or
25 waiver.

1 (e) EFFECTIVE DATE.—

2 (1) MEDICARE.—Subsection (a) shall take ef-
3 fect on the date that is 180 days after the date of
4 enactment of this Act.

5 (2) QUALIFIED HEALTH PLANS UNDER THE
6 AMERICAN HEALTH BENEFIT EXCHANGES.—Sub-
7 section (b) shall take effect on the date that is 180
8 days after the date of enactment of this Act.

9 (3) MEDICAID AND CHIP.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), the amendments made by
12 subsection (c) shall take effect on the date that
13 is 180 days after the date of enactment of this
14 Act.

15 (B) DELAY PERMITTED IF STATE LEGISLA-
16 TION REQUIRED.—In the case of a State plan
17 approved under title XIX of the Social Security
18 Act (42 U.S.C. 1396 et seq.) or title XXI of
19 such Act (42 U.S.C. 1397aa et seq.) which the
20 Secretary of Health and Human Services deter-
21 mines requires State legislation (other than leg-
22 islation appropriating funds) in order for the
23 plan to meet the additional requirements im-
24 posed by the amendments made by subsection
25 (c), the State plan shall not be regarded as fail-

1 ing to comply with the requirements of such
2 title XIX or XXI (as applicable) solely on the
3 basis of the failure of the plan to meet such ad-
4 ditional requirements before the first day of the
5 first calendar quarter beginning after the close
6 of the first regular session of the State legisla-
7 ture that ends after the 1-year period beginning
8 with the date of the enactment of this section.
9 For purposes of the preceding sentence, in the
10 case of a State that has a 2-year legislative ses-
11 sion, each year of the session is deemed to be
12 a separate regular session of the State legisla-
13 ture.

14 **SEC. 4. RECOVERING IMPROPER PAYMENTS.**

15 (a) GUIDANCE.—The Director of the Office of Man-
16 agement and Budget shall prescribe guidance to all agen-
17 cies (as defined in section 551 of title 5, United States
18 Code) to ensure that all improper payments (as defined
19 in section 3351 of title 31, United States Code) are recov-
20 ered.

21 (b) ANNUAL INSPECTOR GENERAL REPORT.—Sec-
22 tion 3353(a)(1) of title 31, United States Code, is amend-
23 ed—

24 (1) in subparagraph (A), by striking “and” at
25 the end;

1 (2) in subparagraph (B)(iv), by striking the pe-
2 riod at the end and inserting “; and; and”

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

4 “(C) include in each report submitted
5 under subparagraph (B) the amount of im-
6 proper payments recovered by the executive
7 agency in the fiscal year covered by the re-
8 port.”.