

110TH CONGRESS
1ST SESSION

H. R. 4105

To impose a moratorium on the use of recovery audit contractors under the Medicare Integrity Program.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 2007

Mrs. CAPPS introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose a moratorium on the use of recovery audit contractors under the Medicare Integrity Program.

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 “Medicare Recovery
5 Audit Contractor Program Moratorium Act of 2007”.

6 **SEC. 2. MEDICARE RECOVERY AUDIT CONTRACTOR PRO-**
7 **GRAM MORATORIUM.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (c), the Secretary of Health and Human Services—

1 (1) shall suspend all further activities under the
2 Medicare recovery audit contractor program (as de-
3 fined in subsection (e)(2));

4 (2) shall not permit recovery audit contrac-
5 tors—

6 (A) to identify any additional underpay-
7 ments or overpayments; or

8 (B) to effect any additional recoupments;
9 and

10 (3) shall not enter into any new contracts under
11 the program.

12 (b) TERMINATION.—The moratorium effected under
13 subsection (a) shall end one year after the date of the en-
14 actment of this Act.

15 (c) APPLICABILITY.—

16 (1) PROTECTION OF APPEAL RIGHTS.—Sub-
17 section (a) shall not affect appeals under the Medi-
18 care recovery audit contractor program.

19 (2) MEDICARE SECONDARY PAYER ACTIVI-
20 TIES.—Subsection (a) shall not affect Medicare sec-
21 ondary payer activities performed by recovery audit
22 contractors.

23 (d) REPORTS.—

24 (1) CMS REPORT EVALUATING THE PRO-
25 GRAM.—

1 (A) IN GENERAL.—Not later than 90 days
2 after the date of the enactment of this Act, the
3 Administrator of the Centers for Medicare &
4 Medicaid Services shall submit to the Congress
5 a report evaluating the Medicare recovery audit
6 contractor program.

7 (B) CONTENTS OF REPORT.—Such report
8 shall include the following information, with re-
9 spect to the Medicare recovery audit contractor
10 program:

11 (i) The number of claims provided by
12 the Centers for Medicare & Medicaid Serv-
13 ices to recovery audit contractors.

14 (ii) The number of claims requested
15 by recovery audit contractors.

16 (iii) The number of claims reviewed by
17 recovery audit contractors.

18 (iv) The number of claims described
19 in clause (iii) reviewed through an auto-
20 mated process and the number of such
21 claims otherwise reviewed by recovery
22 audit contractors.

23 (v) The number and dollar amount of
24 claims that recovery audit contractors

1 sought to recoup after identifying such
2 claims as overpayments.

3 (vi) The number of appeals made by
4 providers and suppliers in response to
5 recoupment of payments by a recovery
6 audit contractor.

7 (vii) The outcome of such appeals.

8 (C) FORM OF DATA.—

9 (i) The information described in sub-
10 paragraph (B) shall be reported—

11 (I) for activities under the Medi-
12 care recovery audit contractor pro-
13 gram in each calendar quarter; and

14 (II) on a national, State, and
15 county basis and according to provider
16 group.

17 (ii) Information described in subpara-
18 graph (B) concerning appeals shall be re-
19 ported by appeal level.

20 (2) GAO REPORT.—

21 (A) IN GENERAL.—Not later than 60 days
22 after the date the report is submitted to the
23 Congress under paragraph (1), the Comptroller
24 General of the United States shall submit a re-
25 port to the Congress regarding the use of recov-

1 ery audit contractors in the Medicare Integrity
2 program.

3 (B) CONTENTS OF REPORT.—Such report
4 shall include the following:

5 (i) An examination of the information
6 described in each of clauses (i) through
7 (vi) of paragraph (1)(B).

8 (ii) An examination of the role of re-
9 covery audit contractors in the Medicare
10 oversight process.

11 (iii) A comparison of the roles of re-
12 covery audit contractors with the roles of
13 quality improvement organizations and
14 Medicare administrative contractors.

15 (iv) An examination of the extent to
16 which the process used by recovery audit
17 contractors is consistent with Medicare
18 policy regarding claims denials and ap-
19 peals.

20 (C) RECOMMENDATIONS.—Such report
21 shall include recommendations—

22 (i) to improve the accuracy and effi-
23 ciency of recovery audit contractors; and

1 (ii) to ensure compliance of recovery
2 audit contractors with Medicare policy con-
3 cerning denials and appeals.

4 (3) QUARTERLY REPORTS.—

5 (A) IN GENERAL.—Not later than 60 days
6 after the end of each calendar quarter begin-
7 ning after the end of the moratorium under
8 subsection (a), the Administrator of the Centers
9 for Medicare & Medicaid Services shall submit
10 to the Congress a report on the conduct of the
11 Medicare recovery audit contractor program
12 during the quarter.

13 (B) CONTENTS OF REPORT.—Each report
14 under subparagraph (A) shall include, with re-
15 spect to a quarter, the information described in
16 each of clauses (i) through (vi) of paragraph
17 (1)(B) for such quarter.

18 (C) FORM OF DATA.—The information re-
19 quired under subparagraph (B) shall be re-
20 ported on a national, State, and county basis
21 and according to provider group.

22 (e) DEFINITIONS.—For the purposes of this section:

23 (1) MEDICARE ADMINISTRATIVE CON-
24 TRACTOR.—The term “Medicare administrative con-
25 tractor” has the meaning given such term in section

1 1874A of the Social Security Act (42 U.S.C.
2 1395kk-1).

3 (2) MEDICARE RECOVERY AUDIT CONTRACTOR
4 PROGRAM.—The term “Medicare recovery audit con-
5 tractor program” means recovery audit contractor—

6 (A) activities under section 306 of the
7 Medicare Prescription Drug, Improvement, and
8 Modernization Act of 2003 (Public Law 108–
9 173); and

10 (B) activities under section 1893(h) of the
11 Social Security Act (42 U.S.C. 1395ddd(h)).

12 (3) MEDICARE SECONDARY PAYER ACTIVI-
13 TIES.—The term “Medicare secondary payer activi-
14 ties” means an activity undertaken to obtain compli-
15 ance with, and enforce, section 1862(b) of the Social
16 Security Act.

17 (4) PROVIDER.—The term “provider” means a
18 provider of services as defined in section 1861(n) of
19 the Social Security Act (42 U.S.C. 1395x(n)).

20 (5) QUALITY IMPROVEMENT ORGANIZATION.—
21 The term “quality improvement organization”
22 means a utilization and quality control peer review
23 organization as defined in section 1152 of the Social
24 Security Act (42 U.S.C. 1320e-1).

1 (6) RECOVERY AUDIT CONTRACTOR.—The term
2 “recovery audit contractor” means a contractor op-
3 erating under the Medicare recovery audit contractor
4 program.

5 (7) SUPPLIER.—The term “supplier” has the
6 meaning given such term in section 1861(d) of the
7 Social Security Act (42 U.S.C. 1395x(d)).

8 (f) CONFORMING AMENDMENTS.—

9 (1) SOCIAL SECURITY ACT.—Section 1893(h)(1)
10 of the Social Security Act (42 U.S.C.
11 1395ddd(h)(1)) is amended by striking “Under the
12 Program” and inserting “Subject to section 2 of the
13 Medicare Recovery Audit Contractor Program Mora-
14 torium Act of 2007, under the Program”.

15 (2) MEDICARE PRESCRIPTION DRUG, IMPROVE-
16 MENT, AND MODERNIZATION ACT OF 2003.—Section
17 306(a) of the Medicare Prescription Drug, Improve-
18 ment, and Modernization Act of 2003 (Public Law
19 108–173) is amended by striking “The Secretary
20 shall conduct” and inserting “Subject to section 2 of
21 the Medicare Recovery Audit Contractor Program
22 Moratorium Act of 2007, the Secretary shall con-
23 duct”.

24 (g) TECHNICAL AMENDMENT.—Section 306(f) of the
25 Medicare Prescription Drug, Improvement, and Mod-

1 ernization Act of 2003 (Public Law 108–173) is amended
2 by striking “information’ means information” and all that
3 follows.

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