

(ii) by adding at the end the following new sentence: “In applying paragraph (1), the Secretary may specify exceptions to the 1 calendar year period specified in such paragraph.”

(b) *EFFECTIVE DATE.*—

(1) *IN GENERAL.*—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2010.

(2) *SERVICES FURNISHED BEFORE 2010.*—In the case of services furnished before January 1, 2010, a bill or request for payment under section 1814(a)(1), 1842(b)(3)(B), or 1835(a) shall be filed not later than December 31, 2010.

**SEC. 6405. PHYSICIANS WHO ORDER ITEMS OR SERVICES
REQUIRED TO BE MEDICARE ENROLLED PHY-
SICIANS OR ELIGIBLE PROFESSIONALS.**

(a) *DME.*—Section 1834(a)(11)(B) of the Social Security Act (42 U.S.C. 1395m(a)(11)(B)) is amended by striking “physician” and inserting “physician enrolled under section 1866(j) or an eligible professional under section 1848(k)(3)(B) that is enrolled under section 1866(j)”.

(b) *HOME HEALTH SERVICES.*—

(1) *PART A.*—Section 1814(a)(2) of such Act (42 U.S.C. 1395(a)(2)) is amended in the matter pre-

1 ceding subparagraph (A) by inserting “in the case of
2 services described in subparagraph (C), a physician
3 enrolled under section 1866(j) or an eligible profes-
4 sional under section 1848(k)(3)(B),” before “or, in the
5 case of services”.

6 (2) *PART B.*—Section 1835(a)(2) of such Act (42
7 U.S.C. 1395n(a)(2)) is amended in the matter pre-
8 ceding subparagraph (A) by inserting “, or in the
9 case of services described in subparagraph (A), a phy-
10 sician enrolled under section 1866(j) or an eligible
11 professional under section 1848(k)(3)(B),” after “a
12 physician”.

13 (c) *APPLICATION TO OTHER ITEMS OR SERVICES.*—
14 The Secretary may extend the requirement applied by the
15 amendments made by subsections (a) and (b) to durable
16 medical equipment and home health services (relating to re-
17 quiring certifications and written orders to be made by en-
18 rolled physicians and health professions) to all other cat-
19 egories of items or services under title XVIII of the Social
20 Security Act (42 U.S.C. 1395 et seq.), including covered
21 part D drugs as defined in section 1860D-2(e) of such Act
22 (42 U.S.C. 1395w-102), that are ordered, prescribed, or re-
23 ferred by a physician enrolled under section 1866(j) of such
24 Act (42 U.S.C. 1395cc(j)) or an eligible professional under

1 section 1848(k)(3)(B) of such Act (42 U.S.C. 1395w–
2 4(k)(3)(B)).

3 (d) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to written orders and certifications
5 made on or after July 1, 2010.

6 **SEC. 6406. REQUIREMENT FOR PHYSICIANS TO PROVIDE**
7 **DOCUMENTATION ON REFERRALS TO PRO-**
8 **GRAMS AT HIGH RISK OF WASTE AND ABUSE.**

9 (a) *PHYSICIANS AND OTHER SUPPLIERS.*—Section
10 1842(h) of the Social Security Act (42 U.S.C. 1395u(h))
11 is amended by adding at the end the following new para-
12 graph:

13 “(9) The Secretary may revoke enrollment, for a period
14 of not more than one year for each act, for a physician
15 or supplier under section 1866(j) if such physician or sup-
16 plier fails to maintain and, upon request of the Secretary,
17 provide access to documentation relating to written orders
18 or requests for payment for durable medical equipment, cer-
19 tifications for home health services, or referrals for other
20 items or services written or ordered by such physician or
21 supplier under this title, as specified by the Secretary.”.

22 (b) *PROVIDERS OF SERVICES.*—Section 1866(a)(1) of
23 such Act (42 U.S.C. 1395cc) is further amended—

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

1 (2) *in subparagraph (V), by striking the period*
2 *at the end and adding “; and”; and*

3 (3) *by adding at the end the following new sub-*
4 *paragraph:*

5 “(W) *maintain and, upon request of the*
6 *Secretary, provide access to documentation relat-*
7 *ing to written orders or requests for payment for*
8 *durable medical equipment, certifications for*
9 *home health services, or referrals for other items*
10 *or services written or ordered by the provider*
11 *under this title, as specified by the Secretary.”.*

12 (c) *OIG PERMISSIVE EXCLUSION AUTHORITY.—Sec-*
13 *tion 1128(b)(11) of the Social Security Act (42 U.S.C.*
14 *1320a–7(b)(11)) is amended by inserting “, ordering, refer-*
15 *ring for furnishing, or certifying the need for” after “fur-*
16 *nishing”.*

17 (d) *EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to orders, certifications, and referrals*
19 *made on or after January 1, 2010.*

1 **SEC. 6407. FACE TO FACE ENCOUNTER WITH PATIENT RE-**
2 **QUIRED BEFORE PHYSICIANS MAY CERTIFY**
3 **ELIGIBILITY FOR HOME HEALTH SERVICES**
4 **OR DURABLE MEDICAL EQUIPMENT UNDER**
5 **MEDICARE.**

6 *(a) CONDITION OF PAYMENT FOR HOME HEALTH*
7 *SERVICES.—*

8 *(1) PART A.—Section 1814(a)(2)(C) of such Act*
9 *is amended—*

10 *(A) by striking “and such services” and in-*
11 *serting “such services”; and*

12 *(B) by inserting after “care of a physician”*
13 *the following: “, and, in the case of a certifi-*
14 *cation made by a physician after January 1,*
15 *2010, prior to making such certification the phy-*
16 *sician must document that the physician himself*
17 *or herself has had a face-to-face encounter (in-*
18 *cluding through use of telehealth, subject to the*
19 *requirements in section 1834(m), and other than*
20 *with respect to encounters that are incident to*
21 *services involved) with the individual within a*
22 *reasonable timeframe as determined by the Sec-*
23 *retary”.*

24 *(2) PART B.—Section 1835(a)(2)(A) of the Social*
25 *Security Act is amended—*

26 *(A) by striking “and” before “(iii)”; and*

(B) by inserting after “care of a physician” the following: “, and (iv) in the case of a certification after January 1, 2010, prior to making such certification the physician must document that the physician has had a face-to-face encounter (including through use of telehealth and other than with respect to encounters that are incident to services involved) with the individual during the 6-month period preceding such certification, or other reasonable timeframe as determined by the Secretary”.

(b) *CONDITION OF PAYMENT FOR DURABLE MEDICAL EQUIPMENT.*—Section 1834(a)(11)(B) of the Social Security Act (42 U.S.C. 1395m(a)(11)(B)) is amended—

(1) by striking “ORDER.—The Secretary” and inserting “ORDER.—

“(i) *IN GENERAL.*—The Secretary”;

and

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

“(ii) *REQUIREMENT FOR FACE TO FACE ENCOUNTER.*—The Secretary shall require that such an order be written pursuant to the physician documenting that a physician, a physician assistant, a nurse

1 practitioner, or a clinical nurse specialist
2 (as those terms are defined in section
3 1861(aa)(5)) has had a face-to-face encoun-
4 ter (including through use of telehealth
5 under subsection (m) and other than with
6 respect to encounters that are incident to
7 services involved) with the individual in-
8 volved during the 6-month period preceding
9 such written order, or other reasonable
10 timeframe as determined by the Secretary.”.

11 (c) *APPLICATION TO OTHER AREAS UNDER MEDI-*
12 *CARE.*—The Secretary may apply the face-to-face encounter
13 requirement described in the amendments made by sub-
14 sections (a) and (b) to other items and services for which
15 payment is provided under title XVIII of the Social Secu-
16 rity Act based upon a finding that such an decision would
17 reduce the risk of waste, fraud, or abuse.

18 (d) *APPLICATION TO MEDICAID.*—The requirements
19 pursuant to the amendments made by subsections (a) and
20 (b) shall apply in the case of physicians making certifi-
21 cations for home health services under title XIX of the So-
22 cial Security Act in the same manner and to the same ex-
23 tent as such requirements apply in the case of physicians
24 making such certifications under title XVIII of such Act.