Requirement for Physicians to Provide Documentation on Referrals to Programs at High Risk of Waste and Abuse

**Summary:** Beginning January 1, 2010, the Secretary would have the authority to disenroll, for no more than one year, a Medicare enrolled physician or supplier that fails to maintain and provide access to written orders or requests for payment for durable medical equipment (DME), certification for home health services, or referrals for other items and services. The provision would also extend the Health and Human Services Office of Inspector General’s (HHS OIG’s) permissive exclusion authority to include individuals or entities that order, refer, or certify the need for health care services that fail to provide adequate documentation to verify payment.

**Status update:**
- On April 1, 2011, the Health and Human Services Office of Inspector General (OIG) issued a notice of proposed rulemaking regarding this section, among others, with comments due June 1, 2011.

**Next steps:**
- January 1, 2010 – Effective date of this section
- May 5, 2010 – CMS issued an interim final rule with comment period regarding this section.
- July 6, 2010 – Comments due to CMS interim final rule with comment period.
- February 2, 2011 – CMS issued final rule on this section.
- April 1, 2011 – Office of Inspector General (OIG) issued a notice of proposed rulemaking regarding this section, among others.
- June 1, 2011 – Comments due to OIG proposed rule.

**Additional information:**
**Long summary:**

Sec. 6406. Requirement for physicians to provide documentation on referrals to programs at high risk of waste and abuse.

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**Legislative text:**

SEC. 6406. REQUIREMENT FOR PHYSICIANS TO PROVIDE DOCUMENTATION ON REFERRALS TO PROGRAMS AT HIGH RISK OF WASTE AND ABUSE.

(a) PHYSICIANS AND OTHER SUPPLIERS.—Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended by adding at the end the following new paragraph:

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

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

(1) in subparagraph (U), by striking at the end “and”;
(2) in subparagraph (V), by striking the period at the end and adding “; and”; and
(3) by adding at the end the following new subparagraph: “(W) maintain and, upon request of the Secretary, provide access to documentation relating to written orders or requests for payment for durable medical equipment, certifications for home health services, or referrals for other items or services written or ordered by the provider under this title, as specified by the Secretary.”.

(c) OIG PERMISSIVE EXCLUSION AUTHORITY.—Section(c) 1128(b)(11) of the Social Security Act (42 U.S.C. 1320a–7(b)(11)) is amended by inserting “, ordering, referring for furnishing, or certifying the need for” after “furnishing”.

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