

# SOCIAL SECURITY AND MEDICARE AMENDMENTS

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Summary of the Provisions of H.R. 10284  
and H.R. 10727

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Prepared by the Staffs of the  
**COMMITTEE ON FINANCE**  
OF THE  
**U.S. SENATE**  
AND THE  
**COMMITTEE ON WAYS AND MEANS**  
OF THE  
**U.S. HOUSE OF REPRESENTATIVES**



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# CONTENTS

## PROVISIONS OF H.R. 10284

	Page
Physicians' prevailing charges.....	1
Waiver of 24-hour nursing requirements in rural hospitals.....	1
Relationship between medicare and the Federal employees health benefits program.....	1
Medicare part B premium.....	1
Professional Standards Review Organization (PSRO) area designations.....	2
Updating life safety requirements for nursing homes.....	2
Grants to demonstrate appropriate mechanisms for capitation payments.....	2
PSRO priority date.....	3
Study regarding coverage of diagnostic services by optometrists.....	3
Modification of 100-percent review requirement under medicaid.....	3
Consent by States to certain suits.....	4
PSRO direct review activities.....	4
Food stamp purchases by welfare recipients.....	4
Tax exempt status of obligations used to provide certain irrigation facilities.....	5

## PROVISIONS OF H.R. 10727

Social security hearings and appeals.....	6
West Virginia policemen and firemen.....	6
Social security payments by States.....	6
Annual reporting of social security wages.....	7
Alaska longevity bonus.....	7
Quarterly payments to the Virgin Islands.....	7

# **PROVISIONS OF H.R. 10284**

**(Public Law 94-182)**

## **Physicians' Prevailing Charges**

**(Sec. 101 of H.R. 10284)**

A provision of P.L. 92-603, passed by the Congress in 1972, was intended to limit the yearly increases in physicians' prevailing fees to an amount reflecting increases in costs of practice and earnings in an area. Due to the fact that regulations to implement this provision were delayed a number of years, the implementation of the provision on July 1 of this year has resulted in a number of physicians' fees being rolled back below their previous level. The intent of the Congress was to limit fee increases but not to roll back fees.

This provision of the bill would assure that no prevailing charge in fiscal year 1976 would be less than it was in fiscal year 1975.

## **Waiver of 24-hour Nursing Requirements in Rural Hospitals**

**(Sec. 102 of H.R. 10284)**

Under a provision of a previous law, the Secretary has had authority to grant temporary waivers of nursing staff requirements in hospitals located in rural areas where nurses are in short supply and other hospitals are not readily available. The Secretary's authority to grant such waivers was due to expire December 31, 1975. This provision of the bill would extend the authority for three years through December 31, 1978.

## **Relationship Between Medicare and the Federal Employees Health Benefits Program**

**(Sec. 103 of H.R. 10284)**

P.L. 92-603, passed in 1972, provided that unless the Federal employees health program were changed to provide supplemental benefits to those older or retired Federal employees who also have medicare eligibility, the medicare program would no longer serve as the primary payer of benefits. The Civil Service Commission has for a variety of reasons been unable to make the called for changes in the Federal employees program and, on December 31, medicare would have ceased as the primary payer, as called for by law.

The provision in the bill would repeal the provision of P.L. 92-603 so that the medicare program would continue as the primary payer of benefits without requiring any change in the Federal employees program.

## **Medicare Part B Premium**

**(Sec. 104 of H.R. 10284)**

A provision in P.L. 93-233, which modified the social security cash benefit provisions, unintentionally failed to make changes allowing for

annual changes in the part B Medicare premium. The bill would correct this error and permit adjustments in part B premiums on July 1, 1976, and in future years as intended by the Congress. Under other provisions of law, any increases in the premium could not be at a greater rate than the percentage rate of increase in cash social security benefits.

### **Professional Standards Review Organizations (PSRO) Area Designations**

(Sec. 105 of H.R. 10284)

Under previous law the Secretary was charged with establishing PSRO areas throughout the country. 203 such areas have been designated and, in more than half of these areas, physician-sponsored organizations have formally contracted as either conditional operating PSRO's or planning PSRO's. However, in a few States in which multiple PSRO areas have been designated, no formal PSRO relationships have been established, due in part to the fact that many physicians in those States have been concerned over their inability to establish a single statewide PSRO. The bill would provide that in those States (1) which have been divided into more than one PSRO area, and (2) in which no conditional PSRO's have been designated, the Secretary will poll the physicians in each designated area as to their preference for a local or statewide PSRO. If a majority of physicians in each currently designated PSRO area in that State approved a statewide PSRO, the Secretary would re-designate that State as a single area.

### **Updating Life Safety Requirements for Nursing Homes**

(Sec. 106 of H.R. 10284)

Current requirements for skilled nursing facilities under the medicare and medicaid programs call for them to meet the provisions of the 1967 Life Safety Code or State codes which are approved by the Secretary as equivalent. This provision would update the requirement by stating that facilities must meet the provisions of the 1973 edition of the Life Safety Code. Facilities already in compliance with the 1967 Code or approved State codes would remain qualified on that basis.

### **Grants To Demonstrate Appropriate Mechanisms for Capitation Payments**

(Sec. 107 of H.R. 10284)

Under present law State medicaid programs can make capitation payments to Health Maintenance Organizations (HMO's) which contract in advance to provide services to medicaid recipients. Recent General Accounting Office, Congressional, and Administration studies have shown that the basis on which payments have been made to these organizations is not necessarily reasonable.

Officials of the State of California have worked with the Department of Health, Education, and Welfare on developing a grant-supported project which would be used to develop a reasonable payment mechanism for HMO's. An integral part of this study involves obtaining data

on the costs of an independent practice association type of HMO and one of these with the data base necessary for the study is the Sacramento Medical Care Foundation. In order to obtain data and continue the activities of this foundation, the proposed grant would include funds to reimburse the foundation for health services provided prior to the starting date of the grant.

The bill would enable the Secretary to approve a grant which includes such retroactive costs where these payments are necessary to assure that the individual practice association can continue in a study carried out by a State agency aimed at developing a rate-setting methodology.

### **PSRO Priority Date**

(Sec. 108 of H.R. 10284)

Present law states that in establishing PSRO's, the Secretary must contract with organizations representing a majority of physicians in the area. After January 1, 1976, the Secretary had been authorized to contract with other organizations with necessary physician competence to perform the review. The bill would extend until January 1, 1978, the time period during which the Secretary would be limited to contracting with physicians' organizations in order to eliminate the creation of a situation in which no PSRO development activity would be present. The bill stipulates that the delay would not be effective in those areas where a proposed PSRO has been rejected by polling the physicians or in an area where the medical association has a formal policy of opposition or non-participation.

### **Study Regarding Coverage of Diagnostic Services by Optometrists**

(Sec. 109 of H.R. 10284)

Under present law, all routine vision care services such as refractions are excluded from coverage. However, with respect to services provided to aphakic patients (those whose natural lenses have been removed, generally at cataract surgery) optometrists are included within the definition of a physician whose services are reimbursable. Because of this inconsistency, confusion has arisen as to which specific services should be reimbursable. The bill would direct the Secretary to conduct a four-month study of the appropriateness of reimbursement under medicare for diagnostic professional services (other than refractive services) performed by optometrists on aphakic patients.

### **Modification of 100 Percent Review Requirement Under Medicaid**

(Sec. 110 of H.R. 10284)

Present medicaid law calls for the review of each hospital admission under the medicaid program and, under a cross reference in the statute, this 100 percent review requirement has been applied to medicare also. This requirement in present law has been said by many to be unnecessarily cumbersome and detailed and to go beyond the Congressional intent expressed in other sections relating to utilization review activities. This provision of the bill would delete the requirement for 100 percent review of hospital admissions and in its place

call for screening of all admissions against criteria established by medical personnel and reviewing a sample of admissions which must be of sufficient size to perform effective review.

### **Consent by States to Certain Suits**

(Sec. 111 of H.R. 10284)

Present medicaid law calls for States to reimburse hospitals at an appropriate level reflecting their costs of operation. If they use other than the medicare reimbursement guidelines, their payment guidelines must be approved as satisfactory by the Secretary. Absent such Secretarial approval or disapproval, a number of States have instituted payment mechanisms which the providers feel are inadequate, yet the providers have no recourse to compel State compliance with the statute.

The bill contains a provision under which any State medicaid plan would be required to include a consent by the State to suit in the Federal courts in actions brought against the State by providers of certain medicaid services.

### **PSRO Direct Review Activities**

(Sec. 112 of H.R. 10284)

PSRO's may discharge their review responsibilities with respect to hospital care in one of two ways—they can delegate the review responsibility to a hospital where they find that hospital capable of carrying out the review, or they can perform the review directly. Under present administrative arrangements, review activities delegated to the hospitals have been reimbursed by the medicare trust fund to the hospital as a part of such a hospital's medicare costs. However, direct review activities carried out by the PSRO have not been so reimbursed with the result that the PSRO must fund such direct review activities from its own administrative budget. This has resulted, in some cases, in a disincentive for the PSRO's to perform direct review and inappropriate delegation of the review process.

Under this bill PSRO's would be reimbursed by hospitals for costs which the PSRO's incur in performing direct review with respect to patients in that hospital. Payments would be made by the hospital to the PSRO with the hospital, in turn, receiving reimbursement in full for these payments from medicare.

### **Food Stamp Purchases by Welfare Recipients**

(Sec. 201 of H.R. 10284)

Another provision of H.R. 10284 relates to food stamps. Agriculture Department regulations scheduled to go into effect in January 1976

would require welfare agencies in all States to allow recipients of Aid to Families with Dependent Children (AFDC) to purchase food stamps through a withholding procedure. The price of the stamps would be deducted from the AFDC check and the stamps themselves would be mailed with the check. Under the provision in the bill, the Agriculture Department regulations could be deferred until October 1, 1976.

### **Tax-Exempt Status of Obligations Used To Provide Certain Irrigation Facilities**

(Sec. 301 of H.R. 10284)

This provision would clarify the tax-exempt status of obligations the proceeds of which are to be used to reconstruct the American Falls Dam in Idaho. Present law provides that an industrial revenue bond whose proceeds are used to build a dam to store water for irrigation purposes may be eligible for tax-exempt status. Where, however, the water also has a subordinate use in generating electricity, the status of the bonds is not clear under existing law. The American Falls Dam is used principally for irrigation purposes, but the water has a subordinate use in generating electricity. H.R. 10284 provides that industrial revenue bonds issued in such a case may qualify for exempt status if substantially all of the stored water is contractually available for irrigation purposes and the water is available on reasonable demand to members of the general public.



## **PROVISIONS OF H.R. 10727**

**(Public Law 94-202)**

### **Social Security Hearings and Appeals**

**(Secs. 1-5 of H.R. 10727)**

The bill makes the provisions of law governing hearings and appeals under the Supplemental Security Income (SSI) program virtually identical to those now applicable to social security and medicare. The period for requesting appeals after an adverse decision would be set at 60 days as compared with 30 days under the existing law for SSI and 6 months under existing law for social security. The bill permits the hearing examiners who are employed to conduct hearings under the SSI program also to hear cases involving social security and medicare claims between now and the end of 1978 under provisions of the Administrative Procedure Act designed to assure freedom from agency control. These changes are aimed at alleviating a large backlog of unprocessed Social Security Administration hearing cases.

### **West Virginia Policemen and Firemen**

**(Sec. 6 of H.R. 10727)**

The bill includes a provision which would permit the State of West Virginia at any time prior to 1977 to make certain retroactive changes in its agreements with the Social Security Administration for coverage of State and local employees. These changes are needed in order to rectify a situation in which some policemen and firemen in the State erroneously paid into the social security system in the mistaken belief that their employment was covered under social security.

### **Social Security Payments by States**

**(Sec. 7 of H.R. 10727)**

Under present procedures, States make quarterly payments to the Social Security Administration of amounts equivalent to social security taxes for State and local government employees who are covered under social security. The Social Security Administration has indicated that it has under consideration a modification in procedures to require that these deposits be made more frequently. The bill includes a provision which would require the Administration to give at least 18 months prior notice before instituting any such change.

## **Annual Reporting of Social Security Wages**

(Sec. 8 of H.R. 10727)

The bill provides for a revision in the procedures for the reporting of social security wages by private employers. At present employers each year must file 4 quarterly reports of each employee's wages for social security purposes in addition to the annual W-2 report of wages for income tax purposes. Under the bill, these five reports will be replaced by a single annual report serving both income tax and social security purposes. This change would be applicable to private employers but not to State and local governments. The change would affect reporting requirements starting in 1978; in the interim, the Congress would have an opportunity to consider other annual reporting proposals if it wishes.

## **Alaska Longevity Bonus**

(Sec. 9 of H.R. 10727)

The State of Alaska provides a monthly payment to aged persons in the State who have resided there for 25 years or more. Under existing law, this payment would be considered income for purposes of the Supplemental Security Income (SSI) program and, thus, cause a dollar-for-dollar reduction in benefits under that program. Up to the present, however, such reductions have not been imposed because of a temporary waiver granted by the Department of Health, Education, and Welfare. The bill includes a provision which permanently exempts such payments from consideration as income for SSI purposes.

## **Quarterly Payments to the Virgin Islands**

(Sec. 10 of H.R. 10727)

The bill includes a provision amending the Internal Revenue Code to provide for quarterly payment, rather than annual payment, to the government of the Virgin Islands of amounts equal to internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

