

Public Law 101-234
101st Congress

An Act

To repeal medicare provisions in the Medicare Catastrophic Coverage Act of 1988.

Dec. 13, 1989
[H.R. 3607]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medicare
Catastrophic
Coverage Repeal
Act of 1989.
42 USC 1305
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Catastrophic Coverage Repeal Act of 1989".

**TITLE I—PROVISIONS RELATING TO PART
A OF MEDICARE PROGRAM AND SUP-
PLEMENTAL MEDICARE PREMIUM**

SEC. 101. REPEAL OF EXPANSION OF MEDICARE PART A BENEFITS.

(a) IN GENERAL.—

42 USC 1395e
note.

(1) GENERAL RULE.—Except as provided in paragraph (2), sections 101, 102, and 104(d) (other than paragraph (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this Act referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

42 USC 1395c-
1395f, 1395k,
1395x, 1395cc,
1395tt.

(2) EXCEPTION FOR BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA (relating to deductibles and coinsurance under part A) shall not apply, but only insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to a deduction for blood).

(b) TRANSITION PROVISIONS FOR MEDICARE BENEFICIARIES.—

42 USC 1395e
note.

(1) INPATIENT HOSPITAL SERVICES AND POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to inpatient hospital services and extended care services provided on or after January 1, 1990—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness;

(B) with respect to the limitation on such services provided in a spell of illness, days of such services before January 1, 1990, shall not be counted, except that days of inpatient hospital services before January 1, 1989, which were applied with respect to an individual after receiving 90 days of services in a spell of illness (commonly known as "lifetime reserve days") shall be counted;

(C) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30

consecutive days in which the individual is not provided inpatient hospital services or extended care services; and (D) the inpatient hospital deductible under section 1813(a)(1) of such Act shall not apply—

(i) in the case of an individual who is receiving inpatient hospital services during a continuous period beginning before (and including) January 1, 1990, with respect to the spell of illness beginning on such date, if such a deductible was imposed on the individual for a period of hospitalization during 1989;

(ii) for a spell of illness beginning during January 1990, if such a deductible was imposed on the individual for a period of hospitalization that began in December 1989; and

(iii) in the case of a spell of illness of an individual that began before January 1, 1990.

(2) **HOSPICE CARE.**—The restoration of section 1812(a)(4) of the Social Security Act, effected by subsection (a)(1), shall not apply to hospice care provided during the subsequent period (described in such section as in effect on December 31, 1989) with respect to which an election has been made before January 1, 1990.

(3) **TERMINATION OF HOLD HARMLESS PROVISIONS.**—Section 104(b) of MCCA is amended by striking “or 1990” each place it appears.

(c) **TERMINATION OF TRANSITIONAL ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.**—

(1) **PPS HOSPITALS.**—Section 104(c)(1) of MCCA is amended by inserting “and before January 1, 1990,” after “October 1, 1988.”

(2) **PPS-EXEMPT HOSPITALS.**—

(A) **IN GENERAL.**—Section 104(c)(2) of MCCA is amended—

(i) by inserting “and before January 1, 1990,” after “January 1, 1989,”; and

(ii) by striking the period at the end and inserting the following: “, without regard to whether any of such beneficiaries exhausted medicare inpatient hospital insurance benefits before January 1, 1989.”

(B) **TRANSITION.**—The Secretary of Health and Human Services shall make an appropriate adjustment to the target amount established under section 1886(b)(3)(A) of the Social Security Act in the case of inpatient hospital services provided to an inpatient whose stay began before January 1, 1990, in order to take into account the target amount that would have applied but for the amendments made by this title.

(d) **EFFECTIVE DATE.**—The provisions of this section shall take effect January 1, 1990, except that the amendments made by subsection (c) shall be effective as if included in the enactment of MCCA.

SEC. 102. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) **IN GENERAL.**—Sections 111 and 112 of MCCA are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.

42 USC 1395e
note.

42 USC 1395ww
note.

42 USC 1395ww
note.

42 USC 1395c
note.

26 USC 59B and
notes, 6050F and
note; 42 USC
1395i-1a and
note.

(b) **DELAY IN STUDY DEADLINE.**—Section 113(c) of MCCA is amended by striking “November 30, 1988” and inserting “May 31, 1990”.

(c) **DISPOSAL OF FUNDS IN FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.**—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Supplementary Medical Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

42 USC 1395t
note.

(d) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

26 USC 59B
note.

(2) **REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.**—The repeal of section 111 of MCCA shall apply to taxable years beginning after December 31, 1988.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM

SEC. 201. REPEAL OF EXPANSION OF MEDICARE PART B BENEFITS.

(a) **IN GENERAL.**—

42 USC 1320a-7a
note.

(1) **GENERAL RULE.**—Except as provided in paragraph (2), sections 201 through 208 of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

42 USC
1320a-7a,
1320c-3 and
note, 1395b-1
note, 1395h,
1395k and notes,
1395l, 1395m
and notes,
1395n, 1395u
and notes,
1395w-2,
1395w-3, 1395x
and notes, 1395y,
1395z,
1395aa-1395bb,
1395cc, 1395mm,
1395ll note,
1395ww note,
1396a, 1396b,
1396n.

(2) **EXCEPTION.**—Paragraph (1) shall not apply to subsections (g) and (m)(4) of section 202 of MCCA.

(b) **CONFORMING AMENDMENTS.**—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (3)(C)—

(A) by striking “Subject to paragraph (4), deductibles” and inserting “Deductibles”, and

(B) by striking “1813, section 1833(b)” and all that follows and inserting “1813 and section 1833(b).”; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(c) **EFFECTIVE DATE.**—The provisions of this section shall take effect January 1, 1990.

42 USC 1320a-7a
note.

SEC. 202. REPEAL OF CHANGES IN MEDICARE PART B MONTHLY PREMIUM AND FINANCING.

(a) **IN GENERAL.**—Sections 211 through 213 (other than sections 211(b) and 211(c)(3)(B)) of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revised as if such sections had not been enacted.

42 USC 401 note,
42 USC 401,
1395i, 1395l,
1395r and note,
1395s, 1395t,
1395t-1, 1395t-2,
1395w, 1395mm.

(b) **EFFECTIVE DATE.**—The provisions of subsection (a) shall take effect January 1, 1990, and the repeal of section 211 of MCCA shall apply to premiums for months beginning after December 31, 1989.

SEC. 203. AMENDMENT OF CERTAIN MISCELLANEOUS PROVISIONS.

(a) **REVISION OF MEDIGAP REGULATIONS.**—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of MCCA, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking “subsection (k)(3)” and inserting “subsections (k)(3), (k)(4), (m), and (n)”;

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting “except as provided in subsection (m),” before “subsection (g)(2)(A)”, and

(ii) in paragraph (3), by striking “subsection (l)” and inserting “subsections (l), (m), and (n)”;

(C) by adding at the end the following new subsections:

“(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection and subsection (n) referred to as the ‘Association’) revises the amended NAIC Model Regulation (referred to in subsection (k)(1)(A) and adopted on September 20, 1988) to improve such regulation and otherwise to reflect the changes in law made by the Medicare Catastrophic Coverage Repeal Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) as revised by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the ‘revised NAIC Model Regulation’).

“(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation or 1 year after the date the Association first adopts such revised Regulation.

“(2)(A) If the Association does not revise the amended NAIC Model Regulation, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as ‘revised Federal model standards’) for medicare supplemental policies to improve such standards and otherwise to reflect the changes in law made by the Medicare Catastrophic Coverage Repeal Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

“(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgates such standards.

“(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

“(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

“(B) no certification made pursuant to subsection (a) shall remain in effect, and

“(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A), unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set

State and local governments.

forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

“(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

“(A) before the transition deadline, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) only if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

“(B) on or after the transition deadline, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) only if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

In this paragraph, the term ‘transition deadline’ means 1 year after the date the Association adopts the revised NAIC Model Regulation or 1 year after the date the Secretary promulgates revised Federal model standards (as the case may be).

“(2) The transition provision described in this paragraph is—

“(A) such transition provision as the Association provides, by not later than December 15, 1989, so as to provide for an appropriate transition (i) to restore benefit provisions which are no longer duplicative as a result of the changes in benefits under this title made by the Medicare Catastrophic Coverage Repeal Act of 1989 and (ii) to eliminate the requirement of payment for the first 8 days of coinsurance for extended care services, or

“(B) if the Association does not provide for a transition provision by the date described in subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

“(3) In paragraph (1), the term ‘qualifying medicare supplemental policy’ means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

“(4)(A) The date specified in this paragraph for a policy issued in a State is—

“(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or revised Federal model standards), as the case may be, or

“(ii) the date specified in subparagraph (B), whichever is earlier.

“(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

“(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

“(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1,

1990. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

“(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policyholder or certificate holder under such policy on such date is sent a notice in an appropriate form by not later than January 31, 1990, that explains—

“(A) the changes in benefits under this title effected by the Medicare Catastrophic Coverage Repeal Act of 1989, and

“(B) how these changes may affect the benefits contained in such policy and the premium for the policy.

“(6)(A) Except as provided in subparagraph (B), in the case of an individual who had in effect, as of December 31, 1988, a medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under such policy before the date of the enactment of this subsection, no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

“(i) provides written notice, no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder (at the most recent available address) of the offer described in clause (ii), and

“(ii) offers the individual, during a period of at least 60 days beginning not later than February 1, 1990, reinstatement of coverage (with coverage effective as of January 1, 1990), under the terms which (I) do not provide for any waiting period with respect to treatment of pre-existing conditions, (II) provides for coverage which is substantially equivalent to coverage in effect before the date of such termination, and (III) provides for classification of premiums on which terms are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

“(B) An insurer is not required to make the offer under subparagraph (A)(ii) in the case of an individual who is a policyholder or certificate holder in another medicare supplemental policy as of the date of the enactment of this subsection, if (as of January 1, 1990) the individual is not subject to a waiting period with respect to treatment of a pre-existing condition under such other policy.”.

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Notwithstanding any other provision of this Act, the amendments made by this Act (other than the repeal of sections 1833(c)(5) and 1834(c)(6) of the Social Security Act) shall not apply to risk-sharing contracts, for contract year 1990—

(1) with eligible organizations under section 1876 of the Social Security Act, or

(2) with health maintenance organizations under section 1876(i)(2)(A) of such Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a descrip-

42 USC 1395mm
note.

42 USC 1395b-2
note.

tion of the changes in benefits under title XVIII of such Act made by the amendments made by this Act.

(d) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of MCCA is amended by striking “subsection (f)” and inserting “subsection (e)”.

42 USC 1395ss
note.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

42 USC 1395ss
note.

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. MISCELLANEOUS MCCA AMENDMENTS.

(a) IN GENERAL.—Sections 421 through 425 and 427 of MCCA are repealed and any provision of law amended or repealed by such sections is restored or revived as if such sections had not been enacted.

5 USC 902 note;
42 USC 1395b
note, 1395b-1
note, 1395b-2
note, 1395h note.

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act, as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking “insurance and deductibles under section 1835(a)(1)(I)” and inserting “coinsurance and deductibles under sections 1833(a)(1)(J)”.

42 USC 1395m.

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act, as added by section 4085(i)(7)(C) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking “accordingly” and inserting “according”.

42 USC 1395u.

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act, as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking “may be” and inserting “may be)”

42 USC 1395ww.

(4) Section 1866(a)(1)(F)(i)(III) of the Social Security Act is amended by striking “fiscal year)” and inserting “fiscal year”.

42 USC 1395cc.

(5) Section 1875(c)(7) of the Social Security Act, as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking “date of the enactment of this Act” and inserting “date of the enactment of this section”.

42 USC 1395ll.

(6) Section 1842(j)(2)(B) of the Social Security Act, as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking “paragraphs” and inserting “subsections”.

(c) MISCELLANEOUS CORRECTIONS RELATING TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act (42 U.S.C. 1395m(b)(4)(A)), as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking “insurance and deductibles under section 1835(a)(1)(I)” and inserting “coinsurance and deductibles under sections 1833(a)(1)(J)”.

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act (42 U.S.C. 1395u(j)(1)(C)(viii)), as added by section 4085(i)(7)(C) of the

Omnibus Budget Reconciliation Act of 1987, is amended by striking “accordingly” and inserting “according”.

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)(iv)), as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking “may be” and inserting “may be”.

(d) OTHER CORRECTIONS.—

(1) Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended by striking “fiscal year)” and inserting “fiscal year)”.

(2) Section 1875(c)(7) of the Social Security Act (42 U.S.C. 1395ll(c)(7)), as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking “date of the enactment of this Act” and inserting “date of the enactment of this section”.

(3) Section 1842(j)(2)(B) of the Social Security Act (42 U.S.C. 1395u(j)(2)(B)), as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking “paragraphs” and inserting “subsections”.

42 USC 1395u
note.

(e) EFFECTIVE DATE.—The provisions of this section (other than subsections (c) and (d)) shall take effect January 1, 1990, except that—

(1) the repeal of section 421 of MCCA shall not apply to duplicative part A benefits for periods before January 1, 1990, and

(2) the amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

Approved December 13, 1989.

LEGISLATIVE HISTORY—H.R. 3607:

HOUSE REPORTS: No. 101-378 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 135 (1989):

Nov. 8, considered and passed House; considered and passed Senate, amended.

Nov. 19, House agreed to conference report. Senate rejected conference report.

Nov. 21, Senate receded from its amendment; reconsidered and passed Senate, amended. House disagreed to Senate amendment. Senate receded from its amendment.