Public Law 94-182
94th Congress

An Act

To amend title XVIII of the Social Security Act, and for other purposes.

Dec. 31, 1975
[H.R. 10284]

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

Medicare; food stamp distribution; irrigation dams, taxes.

TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

SEC. 101. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.". 42 USC 1395u.

(b) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1. 42 USC 1395u note. 42 USC 1395j.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

SEC. 102. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1979". 42 USC 1395x.

COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

SEC. 103. Section 1862(c) of the Social Security Act is repealed. Repeal. 42 USC 1395y.

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TECHNICAL AMENDMENT RELATING TO PART B PREMIUM DETERMINATIONS

42 USC 1395r.

SEC. 104. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".

Effective date. 42 USC 1395r note.

(b) The amendments made by subsection (a) shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

Poll. 42 USC 1320c-1.

SEC. 105. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each such area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?'. If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

"(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this subsection, the Secretary has entered into an agreement (on a conditional basis or otherwise) with an organization designating it as the Professional Standards Review Organization for any area in the State.".

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO NURSING HOMES

42 USC 1395x.

SEC. 106. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23d edition, 1973)".

Effective date. 42 USC 1395x note.

(b) Subject to subsection (c), the amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the date of enactment of this Act.

(c) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section.

42 USC 1395, 1396.

GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 107. Nothing contained in section 222(a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if— 42 USC 1395f note.

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act, 42 USC 1396.

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3).

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 108. (a) Subsections (c)(1) and (f)(1) of section 1152 of the Social Security Act are each amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978". 42 USC 1320c-1.

(b) The amendments made by subsection (a) shall not apply in any area designated in accordance with section 1152(a)(1) of the Social Security Act where— 42 USC 1320c-1 note.

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 109. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than 4 months after the date of enactment of this section a report containing his findings and recommendations with respect to, the appropriateness of reimbursement under the insurance program established by part B of Study, report to Congress. 42 USC 1395j note.

42 USC 1395j.

title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

UTILIZATION REVIEW UNDER MEDICAID

42 USC 1396b.

SEC. 110. (a) Section 1903(g)(1)(C) of the Social Security Act is amended to read as follows:

42 USC 1396a.

"(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved; and the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 per centum of all admissions and must be of sufficient size to serve the purpose of (i) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (ii) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted; and".

Effective date.
42 USC 1396b note.

(b) The amendment made by subsection (a) shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.

CONSENT BY STATES TO CERTAIN SUITS

42 USC 1396a.

SEC. 111. (a) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this title, a State plan for medical assistance must include a consent by the State to the exercise of the judicial power of the United States in any suit brought against the State or a State officer by or on behalf of any provider of services (as defined in section 1861(u)) with respect to the application of subsection (a)(13)(D) to services furnished under such plan after June 30, 1975, and a waiver by the State of any immunity from such a suit conferred by the 11th amendment to the Constitution or otherwise."

42 USC 1395x.

USC prec. title 1.

42 USC 1396b.

(b) Section 1903 of such Act is amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding any other provision of this section, the amount payable to any State under this section with respect to any quarter beginning after December 31, 1975, shall be reduced by 10 per centum of the amount determined with respect to such quarter under the preceding provisions of this section if such State is found by the Secretary not to be in compliance with section 1902(g)."

Supra.

Effective date.
42 USC 1396a note.

(c) The amendments made by this section shall (except as otherwise provided therein) become effective January 1, 1976.

UTILIZATION REVIEW ACTIVITIES

SEC. 112. (a)(1) Section 1861(w) of the Social Security Act is amended— 42 USC 1395x.

(A) by inserting "(1)" immediately after "(w)", and

(B) by adding at the end thereof the following new paragraph:

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.". 42 USC 1320c. 42 USC 1395c. 42 USC 701, 1396.

(2) Section 1815 of such Act is amended— Payment to provider of services. 42 USC 1395g.

(A) by inserting "(a)" immediately after "SEC. 1815.", and

(B) by adding at the end thereof the following new subsection:

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w)(2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w)(2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.". *Supra.*

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses.". Transfer of funds. 42 USC 1320c-17.

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act. Effective date. 42 USC 1395x note.

TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

7 USC 2019 note.

7 USC 2019.

SEC. 201. Notwithstanding any other provision of law, the final date for compliance with regulations in implementation of section 10(e)(7) of the Food Stamp Act of 1964, as amended, may be extended until October 1, 1976.

TITLE III—INTERNAL REVENUE CODE AMENDMENT

CERTAIN IRRIGATION DAMS

26 USC 103.

SEC. 301. (a) Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

Effective date.
26 USC 103 note.

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

Approved December 31, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-626 (Comm. on Ways and Means).
SENATE REPORT No. 94-549 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 121 (1975):
Nov. 17, considered and passed House.
Dec. 17, considered and passed Senate, amended.
Dec. 18, 19, House concurred in Senate amendments with an amendment.
Dec. 19, Senate concurred in House amendment.