

HCFE LEGISLATIVE SUMMARY

July 21, 1980

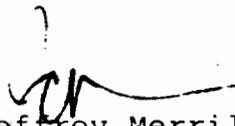
Health Care Legislation

On June 9, 1980, the President signed into law H.R. 3236, (Public Law 96-265) the "Social Security Disability Amendments of 1980." This law contains a series of provisions which would affect the Medicare and Medicaid programs.

The provisions of P.L. 96-265 which relate to the Medicare and Medicaid programs focus on three major areas:

- o The establishment of a voluntary certification program for Medicare supplemental health insurance policies.
- o Amendments related to disability benefits under Medicare and Medicaid.
- o Expanded authority for demonstration projects.

Attached are brief summaries of provisions of the new law which are related to these areas. Unless otherwise indicated, these provisions were effective upon enactment.


Jeffrey Merrill
Director
Office of Legislation
and Policy
Health Care Financing
Administration

The Medicare-Medicaid Provisions of P.L. 96-265
the "Social Security Disability Amendments of 1980"

Voluntary Certification of Medicare Supplemental Health Insurance Policies

1. Voluntary Certification Program

The Secretary would be required to establish, effective July 1, 1982, a voluntary certification program for Medicare supplemental health insurance policies. To be certified, a policy would have to (a) meet or exceed the standards for such policies established by the National Association of Insurance Commissioners (NAIC), including those relating to minimum benefits, preexisting conditions, full disclosure, and no loss cancellations; and (b) be expected, in the aggregate, to pay benefits to subscribers equal to 75 percent of premiums in the case of group policies and 60 percent in the case of individual policies. The voluntary certification program would not include group policies established by an employer or labor organization.

2. State Programs

The voluntary certification program would not be applicable to any policy issued in a State which under State law has, by July 1, 1982, established and implemented standards equal to or more stringent than the NAIC standards, and the loss ratio requirements for individual and group policies under the voluntary certification program. Determinations as to whether a State's regulatory program meets these standards and requirements would be made by a Supplementary Health Insurance Panel, appointed by the President. The Panel would consist of four State Insurance Commissioners or superintendents and be chaired by the Secretary. On or before January 1, 1982, the Secretary would be required to submit to the Senate Finance Committee and the House Committees on Interstate and Foreign Commerce and Ways and Means a report identifying those States that the Panel finds cannot be expected to have implemented a qualified regulatory program by July 1, 1982.

3. Penalties

The bill provides criminal penalties (fines of up to \$25,000 and imprisonment for up to 5 years) for furnishing false information in order to obtain the Secretary's certification; making a false representation with respect to the compliance of a policy with the Federal requirements; falsely representing an association or agency relationship with the Medicare program or any Federal agency for the purpose of selling health insurance; selling supplemental policies by mail which have not been approved by the State or have not been deemed to be approved for sale within that State; or knowingly selling duplicative health insurance to an individual.

4. Studies

The Secretary would be required to conduct a study and to submit to the Congress by January 1, 1982, a report on the effectiveness of various State approaches to regulation of Medicare supplemental policies, and the need for additional standards for Medicare supplemental policies. Further, on July 1, 1982, and no less than every 2 years thereafter, the Secretary is required to submit a report evaluating the effectiveness of the certification procedure and the criminal penalties.

Provisions Affecting Medicare

1. Waiting Period for Reentitled Disabled

Present Law

The disabled become entitled to Medicare hospital insurance benefits (part A) only after being entitled to social security or railroad retirement benefits for 24 consecutive months. Where there is an interruption in entitlement to disability benefits, before or after the 24-month waiting period has been completed, a new 24-month waiting period must be served before entitlement to Medicare can begin or be resumed.

Modification

Under this provision, the waiting period for Medicare coverage for reentitled disabled individuals would be eliminated or shortened by removing the concept of "consecutive" from the law where reentitlement to disability cash benefits occurs within 60 months or less (84 months or less in the case of a child, disabled widow or widower) following the termination of a prior period of disability.

Effective date: 6 months after enactment

2. Extension of Trial Work Period

Present Law

Both Medicare and cash disability insurance benefits are terminated when an individual has either medically recovered or has demonstrated his/her ability to engage in substantial gainful activity. Currently, if a person has earnings of \$300 or more a month, he/she is considered capable of engaging in substantial gainful activity despite his/her impairment.

Modification

Under this provision, the Social Security disability insurance trial work period would be extended to include 12 additional months and Medicare entitlement would be extended for 24 additional months (for a total of 36 months over present law) for disabled individuals engaged in substantial gainful activity who have not medically recovered.

Effective date: 6 months after enactment

Provisions Affecting Medicaid

1.a) Benefits for Individuals who Perform Substantial Gainful Activity Despite Severe Medical Impairment

Present Law

An individual may qualify for Supplemental Security Income (SSI) disability payments only if, and for so long as, he/she is unable to engage in substantial gainful activity.

Modification

This provision would allow individuals who lose eligibility for SSI benefits because they are able to perform substantial gainful activity (but are still physically or mentally disabled) to qualify for a monthly benefit equal to SSI benefits and continue to be eligible for Medicaid and title XX benefits on the same basis as SSI beneficiaries until their earnings cause the SSI payment to be reduced to zero.

When a disabled SSI or State supplement recipient no longer qualifies for cash benefits he/she would continue to be treated as a recipient of cash assistance for purposes of Medicaid and social services eligibility if the Secretary found that termination of eligibility would seriously inhibit the individual's ability to continue employment and the individual's earnings are insufficient to provide the equivalent of cash, Medicaid and title XX benefits.

These provisions would be effective for 3 years, during which the Department would be required to provide for a separate accounting of funds expended under the provision.

Effective date: January 1, 1981

b) Pilot Program

The bill also establishes a new pilot State formula grant program to provide medical and social services to severely handicapped people who are not receiving SSI, State supplement or Medicaid benefits. The State agency administering the program would have to find: (a) that the individual's ability to work would be severely inhibited without assistance; and (b) the individual's earnings are insufficient to provide the equivalent of cash, Medicaid, and title XX social services. The program would be funded at a maximum of \$6 million per year for a initial 3-year period, with States receiving a 75 percent matching rate.

Effective date January 1, 1981, funds would be allotted to States starting September 1, 1981.

2. Deeming of Parent's Income to Disabled or Blind Children

Present Law

Parents' income and resources are "deemed" to a disabled or blind child living in the household with them who is under age 18 or, in the case of children in school or training, under age 21.

Modification

Under the bill, the deeming of parents' income and resources would be limited to disabled or blind children under age 18, whether or not the person is in school or training.

Effective date: October 1, 1980

3. Continued Payment of Benefits to Individuals Under Vocational Rehabilitation Plans

Present Law

An individual is not entitled to DI or SSI after he/she has medically recovered regardless of whether he/she has completed a program of vocational rehabilitation in which he/she is enrolled.

Modification

Under this provision disability insurance or supplemental security income benefits will continue to be paid to an individual even though medically recovered, provided he/she is participating in an approved vocational rehabilitation program and the Commissioner of Social Security finds that completion of the program will increase the likelihood that the individual will be permanently removed from the disability benefit rolls.

Effective date: 6 months after enactment

4. Extraordinary Work Expenses Due to Severe Disability

Present Law

The law and regulations provide that, in determining whether an individual is performing substantial gainful activity, extraordinary expenses incurred by the individual in connection with his employment, and because of his impairment, are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. However, expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.

Modification

Under this provision, the cost of extraordinary impairment-related expenses, attendant care, and other similar items and services necessary to control the impairment (as prescribed by the Secretary in regulations) will be excluded from earnings in determining whether an individual is able to engage in substantial gainful activity. The disregard applies regardless of whether such care and/or services, devices, etc. are also needed to enable him or her to carry out normal daily functions, but only where the individual pays the cost of such items and services. This disregard also will be applied in determining the amount of the individual's SSI benefit payment.

Effective date: 6 months after enactment

Authority for Demonstration Projects

1. Demonstrations Relating to the Terminally Ill

The bill authorizes up to \$2 million a year to be used by the Social Security Administration (SSA) for participation in the HCFA Medicare and Medicaid hospice demonstration project. The purpose of SSA's participation would be to study the impact of the social security disability insurance programs on the terminally ill.

2. Work Incentives and Other Demonstration Projects

The bill authorizes the waiver of benefit requirements of titles II, XVI, and XVIII of the Social Security Act to allow demonstration projects by the Social Security Administration (SSA) to test ways in which to stimulate disability beneficiaries to return to work. Waivers would also be authorized in the case of other disability insurance demonstration projects which SSA wished to undertake, such as a study of the effects of lengthening the trial work period, or altering the 24-month waiting period for Medicare benefits.

Modification

Under this provision, the cost of extraordinary impairment-related expenses, attendant care, and other similar items and services necessary to control the impairment (as prescribed by the Secretary in regulations) will be excluded from earnings in determining whether an individual is able to engage in substantial gainful activity. The disregard applies regardless of whether such care and/or services, devices, etc. are also needed to enable him or her to carry out normal daily functions, but only where the individual pays the cost of such items and services. This disregard also will be applied in determining the amount of the individual's SSI benefit payment.

Effective date: 6 months after enactment

Authority for Demonstration Projects

1. Demonstrations Relating to the Terminally Ill

The bill authorizes up to \$2 million a year to be used by the Social Security Administration (SSA) for participation in the HCFA Medicare and Medicaid hospice demonstration project. The purpose of SSA's participation would be to study the impact of the social security disability insurance programs on the terminally ill.

2. Work Incentives and Other Demonstration Projects

The bill authorizes the waiver of benefit requirements of titles II, XVI, and XVIII of the Social Security Act to allow demonstration projects by the Social Security Administration (SSA) to test ways in which to stimulate disability beneficiaries to return to work. Waivers would also be authorized in the case of other disability insurance demonstration projects which SSA wished to undertake, such as a study of the effects of lengthening the trial work period, or altering the 24-month waiting period for Medicare benefits.