HCFA LEGISLATIVE SUMMARY

March 11, 1983

- P.L. 97-448, the Technical Corrections Act of 1982, enacted January 12, 1983, makes a number of technical and minor policy changes to recent tax legislation, including the Tax Equity and Fiscal Responsibility Act of 1982 and the Economic Recovery Act of 1981. Among the changes relating to HCFA are clarification of the definition of Medicare-qualified Federal employment, revision of the basis for calculating Federal Medicaid payments under the 1981 Omnibus Budget Reconciliation Act growth targets, directions to the Secretary to disregard PSRO evaluations for two quarters of FY 1982, and exemption of HCFA hospice demonstration projects from the requirement to furnish certain core services directly.

P.L. 97-448 - "The Technical Corrections Act of 1982"

Section 309 of the Technical Corrections Act of 1982, P.L. 97-448 (H.R. 6056), makes a number of technical and minor policy changes to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), P.L. 97-248, and to the Social Security Act, including provisions of the Omnibus Budget Reconciliation Act of 1981 (OBRA), P.L. 97-35. The important technical and policy changes are as follows:

Section 309(a)(11) - Medicare Coverage of Federal Employees

Current Law: Section 278 of TEFRA defines the conditions under which Federal employees may qualify for Medicare. As part of those conditions, the law specifies that persons who are Federal employees during January 1983 and prior to that time, who do not otherwise meet the coverage (insured status) requirements of Medicare, may have their Federal employment for periods prior to 1983 considered as if it were Medicare-qualified covered employment, even though it was not subject to the hospital insurance tax. However, dependents of these transitionally insured Federal employees cannot become entitled to Medicare unless and until the Federal employee is also entitled to Medicare.

Therefore, Medicare eligibility for dependents of transitionally insured Federal employees is limited or removed, e.g., a spouse who is 65 cannot become entitled to Medicare until the Federal employee is 65 and is entitled to Medicare; a widow or widower of a transitionally insured Federal employee who died before age 65 can never qualify for Medicare.

Modification: Section 309(a)(11) clarifies the definition of "Medicare-qualified Federal employment" and the conditions under which dependents of transitionally insured Federal employees become entitled to Medicare. Dependents of transitionally insured Federal employees are eligible for Medicare on the same basis as those dependents who qualify for Medicare on the employment record of any other insured person.

Effective Date: January 1, 1983.

Section 309(b)(8) - Supplementary Medical Insurance (SMI) Premium

Current Law: Medicare beneficiaries who enroll in the SMI program after the initial enrollment period must pay a "late penalty" in the form of a 10 percent increased monthly premium for each year enrollment was delayed. TEFRA changes the manner in which the SMI premium is calculated, so that the premium would not be less than 25 percent of the cost of the Part B program. Under TEFRA, it would have been impossible to invoke the 10 percent annual penalty provision for beneficiaries who enroll late in Part B. (This problem arose due to an apparently inadvertent failure to cross-reference TEFRA to other sections of then-current law.)

Modification: The new provision clarifies that the increased SMI premium imposed for late enrollment would continue to be imposed. This is a technical amendment with significant fiscal impact for HCFA.

Effective Date: January 1, 1983.

Section 309(b)(16) - Calculation of Federal Medicaid Payment

Current Law: OBRA reduces Medicaid payments to states by 3 percent in FY 1982, 4 percent in FY 1983, and 4.5 percent in FY 1984. States may, however, earn back the reductions by maintaining total program growth below a specified target rate (9 percent for FY 1981-82). State matching rates changed between those fiscal years, making it easier for states whose Federal Medical Assistance Percentages (FMAPs) decreased to meet the target than for those states whose FMAPs increased. To assure that states were rewarded for controlling total expenditures rather than rewarding them for reductions in their matching payments, TEFRA contains a technical amendment to hold state matching rates at the FY 1981 level for the purpose of determining whether states have met their targets.

Medification: The amendment provides that, for the purpose of determining conformance with state Medicaid growth targets, the FMAP for fiscal years 1982, 1983, and 1984 will be the lower of that in effect for the state in FY 1981 or 1982.

Effective Date: Upon enactment of TEFRA, i.e., September 3, 1982.

Section 309(d) - Professional Standards Review Organizations (PSRO) Evaluations

Current Law: TEFRA repeals the existing PSRO program and requires the Secretary to enter into contracts with peer review organizations for utilization and quality control if a qualified organization is available in a geographical area.

Modification: The Secretary is directed to disregard PSRO evaluations conducted during the first two quarters of FY 1982. The new provision conveys the Congressional intent that existing PSROs compete on an equal footing during the contract negotiations system authorized under TEFRA and that their contract proposals be considered based on a fair evaluation of efficiency and effectiveness.

Effective Date: With contracts entered into or renewed on or after enactment of TEFRA, i.e., September 3, 1982.

Section 309(e) - Hospice Care

Current Law: Under the hospice provisions of TEFRA, a participating hospice is required to provide certain care services directly (i.e., nursing, medical social services, physicians' services, and counseling). Other hospice services may be furnished through arrangements with other parties. TEFRA also requires the Secretary to continue existing hospice demonstration projects until the effective date of the hospice benefit.

Modification: The provision would exempt hospices participating in HCFA demonstrations from meeting the requirement that certain core services be provided directly. The exemption would affect only one hospice (Genessee Region Home Care Association in Rochester, N.Y.). The demonstration project can be continued until September 30, 1986, even though it acts as a channeling agency for the provision of hospice care rather than providing services directly. If the hospice is continued after September 30, 1986, it will be subject to all other requirements imposed on other hospices.

Effective Date: November 1, 1983.