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HEALTH BENEFITS COVERAGE SUPPLEMENTAL TO MEDICARE PROGRAM

GOVERNMENT

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DOCUMENTS

1974

HEARING

BEFORE THE

SUBCOMMITTEE ON

MENT AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON

OFFICE AND CIVIL SERVICE

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H. R. 10687

A BILL TO PROVIDE CERTAIN ENROLLEES OF FEDERAL HEALTH BENEFIT PLANS COVERAGE SUPPLEMENTARY TO PARTS A AND B OF THE MEDICARE PROGRAM WITH APPROPRIATE GOVERNMENT CONTRIBUTION THERETO

MARCH 13, 1974

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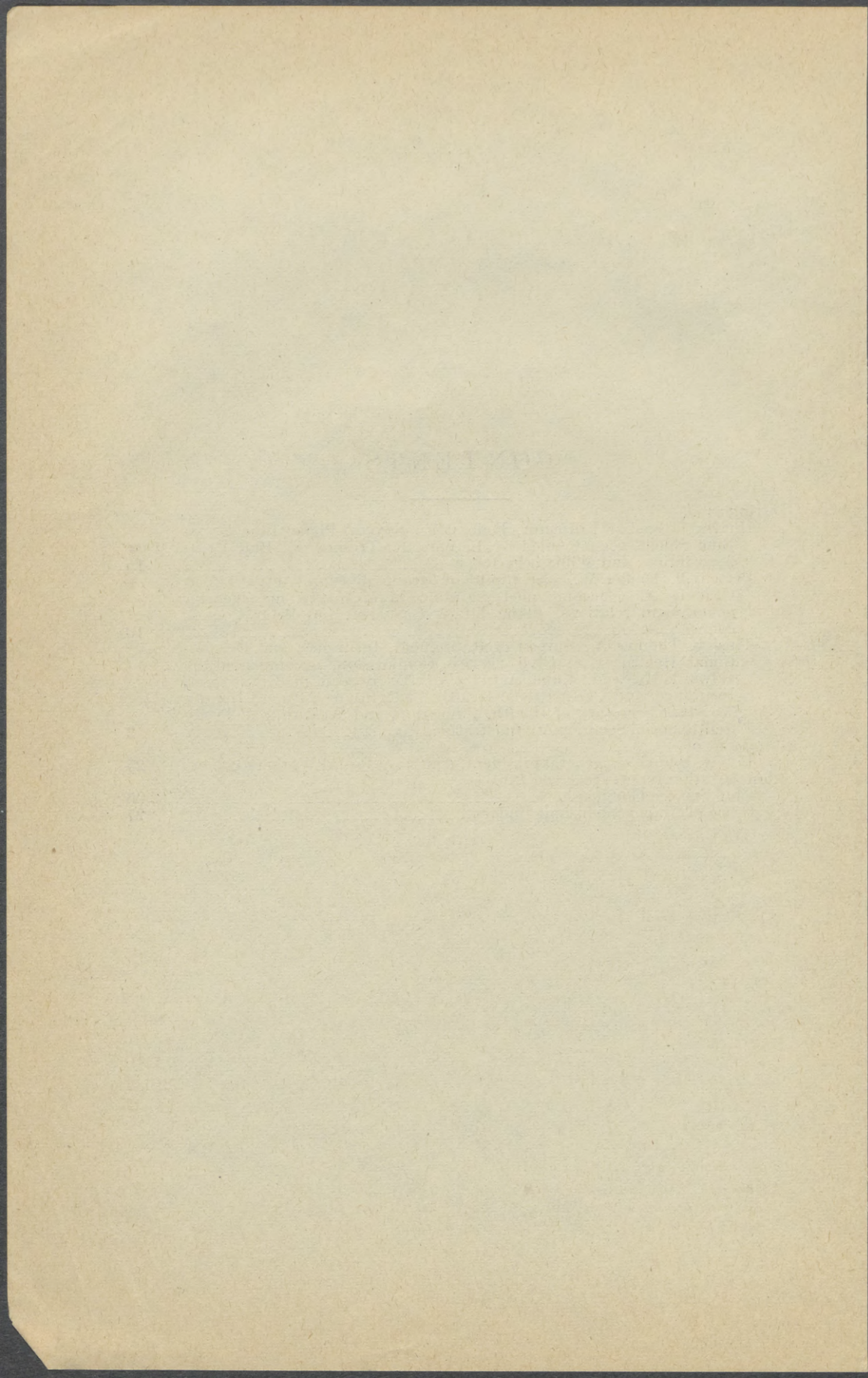
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HEALTH BENEFITS COVERAGE SUPPLEMENTAL TO MEDICARE PROGRAM

WEDNESDAY, MARCH 13, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 210 of the Cannon House Office Building, Hon. Jerome R. Waldie, [chairman of the subcommittee] presiding.

Mr. WALDIE. The subcommittee will come to order. The first three witnesses will be Mr. Thomas Tinsley, Director of the Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission; Dr. Peter Fox, Director, Division of Health Analysis, Office of the Assistant Secretary for Planning and Evaluation of the Department of HEW; and Ms. Peggy L. Smith, Senior Social Insurance Research Analyst, Office of Program Evaluation and Planning, Division of Health Insurance, Social Security Administration.

In legislation that became effective on October 30, 1972, the Congress called upon the Civil Service Commission to provide insurance plans under the Federal Employees' Health Benefits Program (FEP) which would supplement medicare benefits. Under Public Law 92-603, civil service annuitants who are covered by both FEP and medicare should, by January 1975, be given the option of electing coverage under FEP that would supplement benefits offered by medicare. Currently, medicare first pays all allowable expenses of such a retiree's claim (medicare paid approximately \$80 million in claims to Federal retirees in 1972), and the retiree's coverage under FEP then pays the allowable expenses which remain.

Public Law 92-603 provides that if, by 1975, FEP does not offer a supplemental insurance plan to medicare for its participants who have medicare coverage, then the FEP program will become the "primary insurer" and will pay its claims before medicare.

When the medicare program was established in 1965, most private insurance companies modified the costs and benefits of their insurance plans in order to provide coverages which were not duplicated by medicare for their elderly participants. In fact, Congress expressed its desire that coordination between FEP and medicare be developed when, in 1969, both the House and the Senate passed H.R. 17550 which later died in conference.

The situation now confronting FEP is either, as H.R. 10687 directs, to comply with Public Law 92-603's requirement that FEP offer insurance plans that supplement medicare coverage or to permit FEP to become the "primary insurer" of those retirees covered by both programs. It is clear from the Committee on Ways and Means report

on Public Law 92-603 that it was not the committee's intention that primary responsibility for the payment of claims for these annuitants should shift from medicare to FEP. Instead, Public Law 92-603 stated Congress' desire for coordination between FEP and medicare in order to avoid the payment of high premiums by these retirees for benefits that are often duplicated in the plans of both FEP and medicare. It was believed that coordination of these programs should provide these retirees with more comprehensive coverage than they are now eligible to receive and at a comparatively lower price.

I can appreciate the fact that there are some difficulties encountered anytime the provisions of one program are adapted to those of another. The witnesses will, I hope, today provide the subcommittee with their views as to how coordination between these programs can best be achieved.

Mr. Tinsley, will you come forward and introduce those persons accompanying you?

Mr. TINSLEY. I am Thomas Tinsley, Mr. Chairman.

Mr. WALDIE. Mr. Tinsley.

Mr. TINSLEY. The Director of the Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission.

To my right is Mr. Ed Hustead, the Chief Actuary of the Bureau.

Mr. ALTMAN. Mr. Chairman, my name is Stuart Altman. I am Deputy Assistant Secretary of Health, Education, and Welfare. I will be taking Dr. Fox's place, Deputy Assistant Secretary for Health Planning and Evaluation.

Mr. WALDIE. Okay.

Ms. SMITH. I am Peggy Smith from the Social Security Administration.

Mr. WALDIE. All right, Mr. Tinsley, you may proceed.

STATEMENT OF THOMAS A. TINSLEY, BUREAU OF RETIREMENT, INSURANCE AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION; ACCOMPANIED BY EDWARD HUSTEAD, CHIEF ACTUARY OF THE BUREAU OF RETIREMENT, INSURANCE AND OCCUPATIONAL HEALTH; STUART ALTMAN, DEPUTY ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE; AND PEGGY SMITH, SOCIAL SECURITY ADMINISTRATION

Mr. TINSLEY. Mr. Chairman, I appreciate the opportunity to appear before your subcommittee to give the Commission's views on H.R. 10687.

In its formal report dated March 12, 1974, the Commission gave its official views on this bill. Mr. Chairman, with your permission, I would like to request that this report be incorporated in the record of the subcommittee proceedings.

H.R. 10687 was introduced to implement section 1862(c) of the Social Security Act which requires what we view as an extremely complex method of coordinating the FEHB program with medicare by January 1, 1975. If coordination in the manner mandated is not achieved by that date, section 1862(c) alternatively requires the FEHB program to assume primary instead of secondary liability for expenses covered under both programs.

Under the present law, medicare pays its benefits without regard to other health insurance. In other words, with respect to health insurance, medicare is always primarily liable for any expenses it covers. Other health insurance coverage is secondary.

As a practical matter, the implementation of section 1862(c) requires amendments to the Federal employees health benefits law. Unless this is done, and done in a manner necessary to satisfy the requirements of section 1862(c), plans participating in the Federal employees health benefits program will assume primary liability on and after January 1, 1975, for expenses covered under both programs. On the average this would result in raising FEHB premiums for all employees.

Section 1862(c) would require an amendment which would permit three additional options—or really six, if we take into account self-only and family options—to be added to each of the 40 health plans currently participating in the Federal employees health benefits program. These three optional plans would supplement part A of medicare; part B of medicare; and, parts A and B of medicare.

It would also require an amendment to permit the standard Government contribution toward a Federal employee's health benefits premiums to be used to pay not only the premium for the supplemental optional plan selected by an employee or annuitant eligible for medicare but also an additional amount. If this standard contribution is larger than the premium for the supplemental option, the difference must, in effect, be rebated in cash to the Federal employee or annuitant.

The purpose of H.R. 10687 the bill under consideration this morning is to amend the health benefits law to permit the addition of options supplementary to medicare and the rebate of the excess in Government contributions.

At this point I would like to emphasize that the Commission agrees in principle to the objective of the first alternative in section 1862(c); namely, supplementary FEHB coverage. However, we believe and strongly recommend that such action should be deferred pending a vastly improved medicare program which will go into effect with enactment of the administration's comprehensive health insurance proposal.

Mr. WALDIE. May I interrupt you at this moment?

Mr. TINSLEY. Yes, Mr. Chairman.

Mr. WALDIE. I presume in making that recommendation you have in mind a timeframe within which such an action would occur, and that if it did not occur within that timeframe, you would want to propose as the bill proposes?

In other words, you think it is a good idea but because there is pending the administration's comprehensive health insurance proposal, you believe we ought to postpone implementing the GIDEA until that proposal is passed?

Mr. TINSLEY. That proposal or some other national health insurance proposal.

Mr. WALDIE. Suppose I were to tell you that in my view the prospects are dim for the passage of such legislation for, say, 2 years. Would your recommendation be the same?

Mr. TINSLEY. I think what we are fearful of, Mr. Chairman, is going through the complex mechanics and cost of establishing all these options and then having to turn around within another year or so and redo the whole program.

Mr. WALDIE. All right.

But suppose things work out that you don't turn around within a year or so because there is no such massive national health program. There must be—what I am trying to get at, you must have a frame of years that you have in mind to ask us to postpone acting on this proposal because you think another proposal will intervene.

Mr. TINSLEY. I would suggest 2 years. I think we will pretty much know in 2 years whether or not there is or is not going to be national health insurance.

Mr. WALDIE. If we were then going to pass legislation conditioned upon the passage of 2 years before it was implemented, would you have objection to that?

Mr. TINSLEY. I do not believe so, Mr. Chairman. It would also give us an opportunity to make whatever changes or suggest whatever changes might be necessary in terms of implementing section 1862(c) to make it more practical.

Mr. WALDIE. OK.

Mr. TINSLEY. The administration's proposal (H.R. 12684) would extend to nearly all persons over 65 a package of comprehensive, medical, hospital, and related health care benefits which in effect would represent an expanded medicare program.

Federal employees—and the Government as employer—would participate in the new medicare program and at age 65 would qualify for the improved medicare benefits the same as all other Americans.

A transitional provision in that bill—similar to that established when the medicare law was originally enacted—would assure that all individuals would have the opportunity to earn entitlement to coverage. Accordingly, we believe that this subcommittee and the Congress should study the supplementary coverage alternative as proposed by H.R. 19687 in the light of the effect of enactment of a national health insurance bill.

In that light, it is our position that the Commission should not be required to undertake the costly and complex administrative task of changing the FEHB program to coordinate with the present medicare program, and then be required to again restructure the FEHB system and attempt to re-educate Federal employees and annuitants when a national health insurance law is enacted.

Mr. WALDIE. Excuse me a moment.

Mr. TINSLEY. Yes, sir.

Mr. WALDIE. Have you undertaken any efforts thus far to coordinate the present Federal employees benefit program or the present medicare program pursuant to the instructions of Public Law 92-603?

Mr. TINSLEY. Over the past year we have explored a number of alternatives.

Mr. WALDIE. That has been a costly exploration?

Mr. TINSLEY. It has been a costly exploration and it has been quite difficult in terms of the number of plans and options that we have to tie in in the manner mandated by the amendment to the Social Security Act.

Mr. WALDIE. And I presume the Commission has done that?

Mr. TINSLEY. The Commission has done that.

Mr. WALDIE. And I presume the committee may have access to the results of that effort?

Mr. TINSLEY. Yes, Mr. Chairman.

Mr. WALDIE. What portion of the Commission had that responsibility?

Mr. TINSLEY. The Bureau of Retirement, Insurance and Occupational Health.

Mr. WALDIE. So whatever was done to comply with the direction of Public Law 92-603, the results of that effort would be found in your Bureau?

Mr. TINSLEY. That is correct, Mr. Chairman; and it would be made available if you so desire.

Mr. WALDIE. We would appreciate that very much. Had you come up with any conclusions, other than you think it is a difficult job that should not be done?

Mr. TINSLEY. As I believe I indicated in my statement, the only practical way to come up with a supplement would be to come up with a supplement to those individuals who have both part A and part B of medicare. This is the only way I know that the insurance industry writes a supplemental.

I know of no one who attempts to write a supplement for part A above, a supplement for part B above, and then also a supplement for A and B.

To me, it makes no sense to write a supplement for part A. The individual with part A can very easily buy part B and would be better off from a premium standpoint by then buying a supplemental to both parts A and B.

So, really, there is no advantage to write a supplement to part A above. The reduction in premium, if any, would be only slight.

Mr. WALDIE. Is that right?

Forgive my questions here because, I thought medicare covered 80 percent of the claims that formerly had to be covered by the private insurance company under the FEP program. Why should there not be a reduction in the premium of that person, then? Why should the insurance carrier find all of a sudden that their liability under a particular policy has been reduced by 80 percent, but the premium remains the same?

Mr. TINSLEY. I don't believe the premium would be reduced by 80 percent.

Mr. WALDIE. Well, it would be reduced certainly by some factor. 80 percent may be exaggerating. But certainly medicare, with its primary coverage, is picking up medical costs that prior to medicare had to be picked up by those insurance carriers.

Is that not right?

Mr. TINSLEY. Yes; in connection with part A, medicare would be picking up the hospital portion.

Mr. WALDIE. Well, that is the portion that had to be picked up by the insurance company.

Mr. TINSLEY. That is correct.

Mr. WALDIE. Does that now reflect that medicare has picked it up—does that reflect that reduction of premium?

Mr. TINSLEY. It would only be a slight reduction.

Mr. WALDIE. Well, it wasn't reflected in any reduction.

Mr. TINSLEY. Now?

Mr. WALDIE. Ever.

Mr. TINSLEY. As a result of medicare being primary now, yes; there is some benefit in the Federal program.

Mr. WALDIE. Has there been a reduction in premium reflecting that benefit?

Mr. TINSLEY. It is reflected in the premium right now.

Mr. WALDIE. For all?

Mr. TINSLEY. For all.

Mr. WALDIE. Is there a reduction in the premium for that person who has medicare coverage?

Mr. TINSLEY. Can you help by elaborating on this point here, Mr. Hustead?

Mr. WALDIE. The answer is, no; isn't it?

Mr. HUSTEAD. The premium today for everybody is lower, because people are covered by medicare. That is true.

Mr. WALDIE. So medicare in effect, has, I suppose, accrued to the benefit of all people who carry insurance.

Mr. HUSTEAD. That is correct.

If we isolated the people who only have, say, part A medicare, not part B, our experience is that they would cost as much as the average employee now costs because they are older people and their costs, or their doctor costs are much more expensive than the average person.

If these people had no medicare they would cost three to four times what the average employee costs. If they are covered by part A alone and our program they still cost at least as much as the average employee costs because there's a much greater chance they will use hospital or physician benefits and more of them.

Mr. WALDIE. Is that the same analysis that the private companies apply to their insured in programs other than FEP?

Mr. TINSLEY. I am not sure how most of the private companies price out the—

Mr. WALDIE. Well, you clearly know how Aetna and Blue Cross/Blue Shield do, because they are primary carriers.

How do they treat their insureds in similar circumstances under policies different than FEP?

Mr. TINSLEY. As far as I know, Aetna and the Blue's and the comprehensives only write supplementary insurance for those individuals with both parts A and B. I know of no insurance company that writes a supplemental for an individual who only has part A or who only has part B.

Mr. WALDIE. Do we do it for part A and B, permanent supplementals?

Mr. TINSLEY. Your bill proposes supplementals for both A and B.

Mr. WALDIE. Would that be difficult for you to implement that?

Mr. TINSLEY. Not just for those with both parts A and B; no.

Mr. WALDIE. You would be able to do that without any difficulty?

Mr. TINSLEY. It would require a lot fewer options. It would require additional options. But I think it could be done.

Mr. WALDIE. You would not propose waiting the 2 years as you propose at the present time.

Mr. TINSLEY. I do not think that we could work with the 40 carriers and have such a plan—have such plans agreed to, contracts negotiated, premium rates established by the November open season. I see no way of having them effective next January 1.

Mr. WALDIE. OK.

Mr. TINSLEY. Implementation of section 1862(c)(1) would require the development of at least 240 new FEHB options, plus arranging for rebates to certain employees and annuitants. H.R. 10687 would be somewhat simpler to administer.

However, this bill apparently does not meet the requirements of section 1862(c)(1) because it only provides medicare supplements for eligible Federal employees or annuitants who participate in the two governmentwide plans and does not make similar provisions for eligible enrollees in the other 38 plans in the FEHB program—namely, the employee organization, group practice, and individual practice prepayment plans.

Accordingly, even if H.R. 10687 were enacted in its present form, the FEHB program would for some plans still become primarily liable instead of medicare on January 1, 1975, because the mandate regarding supplementary coverage in the first alternative in section 1862(c) would not have been fully implemented.

There is also a very real question as to whether it is necessary to have supplemental options for part A alone and part B alone. An option to supplement both parts A and B together would cost less than what an employee or annuitant now pays. However, since the premiums for these supplements would be based on the health experience of the aged, an option to supplement part B alone would cost more; an option to supplement part A alone would cost about the same or only slightly less so that a person with part A alone would also have to enroll for part B to realize a savings in premium. In other words, the supplement to part A alone and the supplement to part B alone would appear to be unnecessary.

Another complex problem results from the fact that medicare covers individuals while the FEHB program covers families, one member of which may be covered by medicare while the rest are not. A spouse or children may be covered under a family enrollment in an FEHB plan but not under medicare under which only the individual employee or annuitant is eligible to enroll. Some provisions would have to be made for such situations.

In conclusion, while the Commission supports the principle of improved coordination of FEHB and medicare, it is opposed to enactment of H.R. 10687. Instead, we will shortly submit legislation recommending that the Congress take prompt action to postpone the effective date—January 1, 1975—of section 1862(c) of the Social Security Act coincide with the effective date of a national insurance law in which Federal employees and annuitants will participate.

I thank you for the privilege of appearing this morning. I will be happy to answer any questions.

Mr. WALDIE. If your proposed legislation is not adopted and H.R. 10687 is not adopted, what would be the conditions that exist on January 1, 1975?

Mr. TINSLEY. We will become primary.

Mr. WALDIE. What consequences will follow from that?

Mr. TINSLEY. It will probably result in an increase in premiums in the Federal program.

Mr. WALDIE. Why would that be?

Mr. TINSLEY. Because we would have to pay out of the FEP the money that we realized in savings for benefits that medicare is now paying. We estimate that to be at present about \$85 million and in 1975 we estimate it to be about \$104 million.

So premiums would have to increase by those amounts. Medicare is now paying these bills in these amounts because of the duplicate coverage and the fact that medicare is now primary.

Mr. WALDIE. What would you anticipate that would require, in terms of increase in premiums?

Mr. TINSLEY. The increase in premiums would vary in each plan and option, depending upon the distribution of the medicare recipients throughout the various groups. Some carriers would be affected less than others. The most severely affected carrier would probably be Aetna, and the Blues to some extent.

Mr. WALDIE. Why is that?

Mr. TINSLEY. Aetna has the greater number of medicare enrollees in their plan.

Mr. WALDIE. And why is that? Can you tell me?

Mr. TINSLEY. My own opinion would be that initially and even today, the Aetna program, in terms of the benefit structure is, I believe, more attractive to older people. The Blues' programs are more attractive to younger people, while they have some benefits attractive to older people, they are set up in a way where they are probably more attractive to the individual with a family. That is my personal opinion.

Mr. WALDIE. Yes. I understand.

Mr. TINSLEY. In addition, the rates would be affected by the distribution between options, and as near as we can estimate, the effect would be greater on the low options than on the high options because most of these people that have medicare probably are purchasing the low options which now are a very good supplement to medicare.

Mr. WALDIE. I guess what I am beginning to puzzle over most and worry about the most is, has the Commission dragged its feet in seeking to comply with 92-603 in bringing us up to the point of demanding either a repeal of the bill, which in essence is what you are asking, or confronting us with the possibility of a substantial premium increase. I can't make that determination now, but when I get a look at your work product and what you have been doing to come about into compliance with 92-603 I might make a better assessment of that. But I just am not at all persuaded, very frankly, by your contention that we should postpone anything in the health field until the President's proposal is adopted. That just doesn't make a great deal of sense to me for a lot of reasons. But that essentially is what your argument is in this presentation, that we sit tight here and wait until the President's program is enacted because that is going to change everything in the field, and it clearly would, or any national health program. But that isn't a response to the essential question that I have as to why there has been some seemingly—and I don't know that this is a correct conclusion—little effort to come up with the mandates of 92-603.

But I gather HEW might shed some light on that because HEW was supposed to work the Blues; is that correct, to come up with some resolution of how to provide supplemental coverage?

Mr. TINSLEY. Mr. Chairman, I might say this. I don't think the Commission has deliberately dragged its feet.

Mr. WALDIE. No; I don't know that that is so. But they dragged their feet, period, whether accidentally or not.

Mr. TINSLEY. The Commission undertook studies to best determine how to implement the law after it saw what was enacted. I might point out that the Commission was not consulted, incidentally, when section 210 of H.R. 1 was under consideration.

We undertook a series of studies to see exactly what would have to be done to implement 210. Although I was not personally involved in the meetings with the HEW people, I do know that the former Bureau Director and the Chief of our Legislative and Policy Division met at least on one or two occasions with HEW people to discuss and get their input. What transpired in those meetings, I have no personal knowledge. However, I do know they were held to discuss implementation of section 210.

Mr. WALDIE. Well, are the representatives of HEW able to shed any light on what role HEW has played in attempting to work out this problem?

Mr. ALTMAN. I am afraid not, Mr. Chairman. This has been primarily, if not entirely, a civil service activity. We have provided technical assistance through our social security medicare activities to provide help to them, but it has not been a primary responsibility of the department.

Mr. WALDIE. For what purpose are you here today?

Mr. ALTMAN. Well, my main responsibility is with respect to the President's comprehensive health insurance program and how it would operate.

Mr. WALDIE. We are not really interested in that. That, it seems to me, again, to be dragging something across the path of the committee: I am not interested in what—it is really speculative as to what we may confront in the future. What objections do you find today, without any assumptions as to what may happen to the President's programs in terms of national health insurance, to implementing 92-603.

Mr. ALTMAN. The Department's position is, from the point of view of a long-term strategy, we are supportive of it. We have deferred to the Civil Service Commission with respect to the problems they indicate and their need for planning. So the Department itself is not opposed to the concept. But we have not taken a position with respect to the ease with which it can be implemented. That has been a civil service call.

Mr. WALDIE. So the conclusion thus far is solely that of the Civil Service Commission, not of HEW, that it is difficult to implement the legislation.

Mr. ALTMAN. Yes, sir.

Mr. WALDIE. I appreciate your appearance, but I am really not interested in the President's health program.

Now, Mr. Tinsley, do you have anything else to offer at this moment?

Mr. TINSLEY. No, Mr. Chairman.

Mr. WALDIE. Thank you for appearing.

We will call our next witness, Mr. Daniel W. Pettengill, vice president of the Group Division, Aetna Life & Casualty Co. Mr. Pettengill will you introduce the folks with you?

Mr. PETTENGILL. Thank you, sir. On my left is Mr. Malcolm McIntyre, manager for government relations for Aetna Life & Casualty and on my right is Mr. Peter Connell, Washington counsel.

Mr. WALDIE. Mr. Pettengill, you may proceed as you desire.

STATEMENT OF DANIEL W. PETTENGILL, VICE PRESIDENT, GROUP DIVISION, AETNA LIFE & CASUALTY CO.; ACCOMPANIED BY MALCOLM MCINTYRE, MANAGER FOR GOVERNMENT RELATIONS, AETNA LIFE & CASUALTY; AND PETER CONNELL, WASHINGTON COUNSEL

Mr. PETTENGILL. My name is Daniel W. Pettengill. As a vice president of the Group Division of Aetna Life & Casualty, I have primary responsibility for administering the indemnity plan under the Federal Employees Health Benefits Act (FEHBA) on behalf of all insurance companies licensed to write health insurance.

I am here today on behalf of these companies to urge prompt enactment of H.R. 10687, a bill to provide certain enrollees of Federal health benefit plans coverage supplementary to parts A and B of the medicare programs with appropriate government contributions thereto.

In 1972 Congress enacted Public Law 92-603. Section 210 of that law amends the medicare law and provides that no payment will be made under medicare for any item of service covered under a FEHBA plan unless: such plan makes available protection supplementary to medicare; and the Government makes a contribution for that supplementary coverage which is at least equal to the contribution which the Government makes toward the health insurance of any employee or annuitant enrolled for high option coverage under FEHBA.

In simpler terms, section 210 provides that FEHBA benefits will be primary to medicare unless that FEHBA plan offers an option of coverage which is specifically supplementary to medicare.

While most FEHBA plans are willing to offer such options, they are stopped from doing so by FEHBA itself. The bill you are considering today, H.R. 10687, would correct this inequity by allowing each FEHBA plan to offer benefits which are supplementary to medicare and allowing the Government to make appropriate contributions to such coverage. In brief, this bill is a technical revision of FEHBA which carries out the requirements and the intent of section 210 of Public Law 92-603.

Aside from the clear intent of Congress in passing Public Law 92-603, there are other reasons why H.R. 10687 should be enacted into law, thus allowing medicare supplements to be offered Federal employees and annuitants.

First of all I personally am aware of no group health policy in the country which is primary to medicare. Indeed, I doubt if the Bureau of Health Insurance is equipped to administer medicare in the manner provided and required by section 210; namely, coordinating medicare benefits against those provided under FEHBA plans.

Secondly, if this bill is not passed this year and thus by reason of congressional inaction the FEHBA plans all become primary to medicare, significant premium increases will result.

These premium increases would place an unwarranted penalty both on the Federal employee under age 65 who would be forced to finance unneeded benefits for certain annuitants and on those Federal employees and annuitants age 65 and older who have paid for medicare benefits yet will be deprived of them.

Finally, the inequity of this penalty will be compounded by virtue of being assessed unevenly. This is so because the amount of premium increase required will depend on the ratio of the share of medicare beneficiaries a plan serves to the share of other annuitants and employees it serves. Thus for the indemnity benefit plan the penalty; that is, the premium increase will probably be 11 percent, while for the service benefit plan it may be only 7.4 percent.

In summary, the insurance companies of the United States support the enactment into law of H.R. 10687 as a technical revision of the Federal Employees Health Benefits Act that is essential to carry out the intent of Public Law 92-603 and to avoid an unfair burden on most Federal employees.

Mr. Chairman, before I conclude my statement I would like to call to the attention of the subcommittee an important technical issue which calls for the amendment of H.R. 10687 in order to achieve the purpose of the bill. Essentially, the problem relates to the level of the required Government contribution to a medicare supplement plan.

Let me describe this problem, and the solution I would suggest, for the record. I would be glad to embellish this in response to your questions if you like, or you might wish to study it and receive the benefit of an analysis by your staff prior to a markup session on the bill.

The Federal Employees Health Benefits Act was amended on January 31, 1974, by Public Law 93-246. Section 1(a) of that act increased the Government contributions for health benefits for employees or annuitants from 40 percent to 50 percent of the average subscription charges for the highest level of benefits offered by six representative plans effective January 1974; and to 60 percent for pay periods commencing in 1975.

Mr. WALDIE. May I interrupt you? I gather that is a technical error that may have been made in the drafting of the bill that you are suggesting we examine and correct if that is a correct interpretation?

Mr. PETTENGILL. It was not a technical error, sir, at the time you drafted the bill. It is simply that subsequent legislation necessitates a technical amendment.

Mr. WALDIE. I think what we will do is have staff examine what you have suggested and we will clearly respond to it if that is correct.

Mr. PETTENGILL. Fine.

Mr. WALDIE. Rather than testify on it. Does your addendum deal with that, too?

Mr. PETTENGILL. Yes. The addendum is the suggested corrective language to take care of this little technical difficulty.

Mr. WALDIE. Fine.

Mr. PETTENGILL. In other words, what has happened is that there has been subsequent legislation which requires a minor change.

Section 210 of Public Law 92-603 requires the Government contribution to a medicare supplement plan to be at least equal to the contribution which the Government makes to an employee or annui-

tant enrolled for high option coverage. Beginning in 1975—when the medicare supplement must be available—this Government contribution must be 60 percent of the average high option subscription charge.

However, section 1(a) of Public Law 93-246 also placed a limit on the Government contribution of 75 percent of the subscription charge. The problem thus presented is this: if 60 percent of the average high option subscription charge exceeds 75 percent of the subscription charge of the medicare supplement, then the Government contribution would fall short of the level required to qualify the medicare supplement program for certification by the Secretary of Health, Education, and Welfare.

Your bill, H.R. 10687, was drafted and introduced several months before the enactment of Public Law 93-246. It was obviously drafted, on the basis of then current law, for example a 40 percent Government contribution level (sec. 4). The bill must now be amended to reflect the intervening change in the law, including, in particular, the difficulty posed by the 75-percent limitation. I would suggest that this can be accomplished by two amendments to H.R. 10687. Without objection, I would like at this time to offer what I consider the language of the proposed amendments which would accomplish this purpose.

I will, of course, be glad to answer any questions you might have at this time, and I would like to express my appreciation to you, Mr. Chairman, for addressing the subcommittee's attention to the need for this important implementing legislation and for providing me with the opportunity to testify this morning.

[The language referred to follows:]

Proposed amendment No. 1

Strike section 4 of H.R. 10687 and substitute the following new section:

Sec. 4. Subsection (b) of section 8906 of title 5, United States Code, is amended by deleting the words "paragraph (2)" and inserting in lieu thereof the words "paragraphs (2) and (3)."

Proposed amendment No. 2

Strike section 5 of H.R. 10687 and substitute the following new section:

Sec. 5. Subsection (b) of section 8906 of title 5, United States Code, is amended by adding a new paragraph (3) at the end thereof as follows:

"(3) Notwithstanding the limit imposed by paragraph (2) of this subsection, the Government contribution for an employee or annuitant who has elected the optional benefits described in section 8904(1)(G) and 8904(2)(G) of this title shall be in an amount at least equal to the contribution which the Government makes toward the health insurance of any employee or annuitant enrolled for high option coverage under the Government-wide plans authorized under this chapter. Such contribution shall be made in the form of (1) a contribution toward the protection supplementary to part A or B, or parts A and B, of title XVIII of the Social Security Act, (2) a payment to or on behalf of such employee or annuitant to offset the cost to him of his coverage under title XVIII of the Social Security Act, or (3) a combination of such contribution and such payment."

(Section 6 of H.R. 10687 is rendered unnecessary by the operation of the above proposed amendments in conjunction with section 1(c) of P.L. 93-246. Accordingly it should be stricken.)

Mr. WALDIE. Will you, for my sake, try and summarize for me what Mr. Tinsley was trying to tell us their objections were? Forget all that nonsense about the President's program of national health care. Excising that from his presentation, what did he say?

Mr. PETTENGILL. He is saying that he thinks the administrative complexities of complying with H.R. 10687 would be so great that he

would prefer to impose on the Federal employees an additional premium burden for a few years hoping that at that point in time a national health insurance program will be enacted.

Mr. WALDIE. Would he be talking about an additional premium burden on the same, which is a premium burden? In other words, he wouldn't want to change the situation except he would not want to have to comply with Public Law 92-603. He wants that in effect stopped?

Mr. PETTENGILL. In fairness to Mr. Tinsley, he would like to get a postponement of the effective date of section 210.

Mr. WALDIE. What he is saying, then, the additional burden that exists in the plan he would continue.

Mr. PETTENGILL. Right.

Mr. WALDIE. The additional burden to which you made reference was not the increase in premium that would occur if they became the primary insurer because he wants to avoid that?

Mr. PETTENGILL. That is true. But the place that I respectfully disagree—and I am sorry to do so—with Mr. Tinsley is that I think the possibility of passage this year—

Mr. WALDIE. I don't even want you to talk about that. It seems to me that has nothing to do with what we asked them to come up here for. I am surprised that was even brought up.

But what I am really trying to find out is, is there any, in your view, legitimate reason why the Civil Service Commission, No. 1, up to this point has not come up with some proposals under Public Law 92-603? Was it that confusing?

Mr. PETTENGILL. There is no question but what the Civil Service Commission is correct in stating to you that a very substantial number of additional premium accounts and options would have to be established. So that from the point of view of administration by the Civil Service Commission, their work would be increased. However, you will recall that the average employee in the Federal Government really only has the servicewide plan and the indemnitywide plan to choose from, so that in terms of complexity for the employee, it isn't very great. In other words, if he is eligible for medicare, he knows what part of medicare he is eligible for and therefore in reality it isn't any complex choice. He is basically deciding whether he would rather pay a little money and stay where he is or buy one of these supplements.

Mr. WALDIE. If 10687 is enacted, is there anything to the argument that prior to the effective date of section 210, they cannot come up with the supplementals?

Mr. PETTENGILL. As far as the carriers are concerned, sir, in my judgment we could come up with good supplemental plans and reasonably sound premium rates for those supplemental plans within 60 days.

Mr. WALDIE. Have you informed the Civil Service Commission of that fact?

Mr. PETTENGILL. Yes, sir.

Mr. WALDIE. The carriers that participate in the plan, I guess without any exceptions, support the enactment of H.R. 10687; is that correct?

Mr. PETTENGILL. I can only speak for the commercial insurance companies which reinsure the indemnity benefit plan. We are unanimous in supporting the enactment of this program.

Mr. WALDIE. The only opposition appears to be the Civil Service Commission and they base it upon a tenuous straw or weed or reed—weed—that the President's comprehensive national health program will be passed. That is really what they are saying.

Mr. PETTINGILL. And the fact that it would involve them in handling a fair number of premium accounts.

I would like also, sir, if I may—and again I dislike disagreeing with Mr. Tinsley on this matter—but he said that this bill would only permit the service plan and the indemnity plan to offer supplementary coverage.

Now, I am not an attorney and I must confess when I draft language I always do it with trepidation, but it seems to me that as I read H.R. 10687, it does not have the flaw to which he referred, because the sections which call for employee plans and for group practice plans and individual practice plans come after and refer back to the service and indemnity plans.

So, by amending the service and indemnity plans as H.R. 10687 does, to permit supplements, those other plans are likewise amended. Plans 3 and 4 refer back to plans 1 and 2, and, therefore, in my judgment, simply by amending items 1 and 2, items 3 and 4 are automatically amended.

So it was my reading of your bill that all plans, all plans under the Federal Employees' Act would be permitted to offer these supplements.

Now, if I'm wrong, certainly this is a technical error that should be corrected. But in my reading of the bill, all plans are permitted to have supplements.

Mr. WALDIE. Well, is it your understanding without that legislation the existing plans are not permitted to have supplements?

Mr. PETTINGILL. Absolutely true, sir.

Mr. WALDIE. Well, I have a NARFE pamphlet here. NARFE offers a supplement now. Did you know that?

Mr. PETTINGILL. Well, all I can say, sir—

Mr. WALDIE. There is a supplement to medicare as well as, "providing long-term coverage for persons without medicare, the NARFE \$25,000 supplemental plan provides—" and so forth.

Mr. PETTINGILL. All I can say, sir, is that for the Government-wide indemnity benefit plan and the Government-wide service plan, the law is painfully specific that we can only offer two levels of benefits which we have done in terms of the high option and the low option. So, at least as far as those two plans are concerned, the law is painfully specific that we cannot offer a medicare supplement.

Mr. WALDIE. I have unintentionally been confused. NARFE, I have been told, is not an FEP carrier.

Mr. PETTINGILL. All right, sir. But I can assure you that our lawyers have researched this very carefully as far as the Government-wide indemnity benefit plan is concerned and we are prohibited by the Federal Employee's Act itself from offering a medicare supplement.

And therefore, enactment of 10687 is absolutely essential if you are not going to penalize the Federal employees with a substantial rate increase which, in my judgment, is in excess of the extra cost that the Civil Service Commission will incur by reason of the complexities of administration.

I am sympathetic to Mr. Tinsley; it is an additional complexity. But I say that an employer has to assume that additional complexity of administration in order to avoid an unfair burden on his employees.

Mr. WALDIE. Well, I think you can presume, or Mr. Tinsley should have presumed that when the Congress enacted the law, it was aware that it would impose additional responsibilities and therefore additional complexities upon the Civil Service Commission, but even aware of that, did so.

Mr. McIntyre, do you have anything you would like to offer?

Mr. McINTYRE. Not at this time, Mr. Chairman.

Mr. WALDIE. Mr. Connell?

Mr. CONNELL. No, sir.

Mr. WALDIE. Mr. Pettengill, do you have anything further?

Mr. PETTENGILL. No, thank you, sir.

Mr. WALDIE. I appreciate your testimony very much.

Mr. PETTENGILL. You are welcome.

Mr. WALDIE. Mr. Harvey, director, Federal Employees' Plans, Blue Cross-Blue Shield, is the next scheduled witness.

STATEMENT OF JOSEPH E. HARVEY, DIRECTOR, FEDERAL EMPLOYEES' PLANS, BLUE CROSS-BLUE SHIELD; ACCOMPANIED BY BERNARD R. TRESNOWSKI AND WILLIAM E. RYAN

Mr. HARVEY. Mr. Ryan will be the principal witness.

Mr. WALDIE. Okay, Mr. Ryan.

Mr. RYAN. Mr. Chairman, we have a rather brief statement.

Mr. WALDIE. All right.

Mr. RYAN. Mr. Chairman and members of the subcommittee. I am William E. Ryan, senior vice president of NABSP. With me today are Bernard R. Tresnowski, senior vice president of Blue Cross Association, and Joseph E. Harvey, vice president of NABSP and BCA. I am pleased to share with you the views of the Blue Cross and Blue Shield systems toward H.R. 10687—which would establish a separate complementary coverage program for FEP subscribers who are also eligible for medicare benefits.

As you know, Blue Cross and Blue Shield plans provide the governmentwide Service Benefit Plan for Federal employees. At the end of last year, 61 percent of the persons enrolled in all approved Federal carriers were enrolled under the Service Benefit Plan. Blue Cross and Blue Shield enrollment of over 1.7 million Federal employees and annuitants includes 12 percent who are 65 or older, which is 51 percent of all persons 65 or older enrolled in all approved carriers.

The problem which H.R. 10687 was designed to solve is a real one. However, we believe there is a better solution than the one offered in this bill. Consequently, for reasons this statement will describe, we oppose the establishment of a separate complementary coverage program for FEP enrollees who are also eligible for medicare.

The problem we are attempting to solve arises from the fact that some persons enrolled in the Service Benefit Plan are also eligible for part A of medicare and have purchased part B. The combination results in a duplication of benefits. By regulation—and rightly so—the Social Security Administration has said that in case of duplication, medicare is the primary payer. Other health care coverage is secondary. Where the secondary coverage has provisions for coordination of

benefits, coverage is provided only for services not covered by medicare. But where there is no coordination of benefits, duplicate payments might frequently be made.

The Service Benefit Plan has taken that possibility into consideration. Our contract with the Civil Service Commission includes coordination of benefits. It guarantees that enrollees 65 or older get the full benefits of the Federal employee program, except for those services covered by medicare.

In fact, Blue Cross and Blue Shield has broadened its FEP coverage to give more advantages to the elderly. For example, for persons 65 and older enrolled under part B, the FEP supplemental benefits waives the deductible and coinsurance requirements. That means full coverage for outpatient prescription drugs and medicines—a benefit not provided by medicare. It also means full coverage for covered private duty nursing. As you can see, the Service Benefit Plan provides broad and high quality complementary benefits to beneficiaries of medicare.

Therefore, it seems to us that the complementary benefits intended by H.R. 10687 already exist—in perhaps a better form than would be provided under this bill since it is possible that a separate complementary package would not provide benefits as good as those now provided.

We do, however, want to suggest a way that FEP could be made better for persons 65 and older who also have medicare benefits. It is to amend the Federal Employees Health Benefits Act in a manner that will allow carriers to reduce the FEP subscription rate to those subscribers with medicare eligibility. We will be happy to provide the subcommittee with a suggested amendment to the act that would accomplish this purpose. At the present time, the person with both medicare and FEP coverage has to pay the same rate for FEP as anybody else. This is true in spite of the fact that the medicare program duplicates many of the benefits provided under the Federal employee coverage.

We cannot give exact figures at this time because we have not been able to find out how many FEP subscribers are eligible for medicare. But we believe subscription rates for them could be lowered significantly if carriers were allowed to relate the subscription charges to the actual benefits paid under the secondary payer arrangement. This is the approach generally adopted by private industry as an equitable method of complementing medicare.

To summarize quickly, Mr. Chairman, we believe strongly that changing the Federal Employees Health Benefits Act to permit a reduction in subscription charges would help those senior citizens more than creating a separate complementary program which, as I said earlier, might not include all of the benefits now available to them through FEP.

Mr. Chairman, that completes our formal statement.

Mr. WALDIE. Didn't I ask the Commission precisely that question, why they didn't permit a reduction of premiums for those that are receiving medicare, just as you have proposed?

Mr. RYAN. It seems to me, Mr. Chairman, that both from the Commission and also from Mr. Pettengill, carriers such as ours—the service benefit program, are allowed only two options; therefore, only two rates, at the moment. What we are saying is—and maybe we are not

as far apart as may appear in our saying we oppose the law—it is a question of whether or not we are going to build a separate program and put it on top of medicare or whether we are going to let medicare-eligible people maintain their Federal employee option of their choice and simply provide supplemental coverage at a reduced rate.

Mr. WALDIE. Well, that would seem to me at first glance to be the logical way to approach what is an inequity. But I didn't gather that either Mr. Pettengill or Mr. Tinsley seemed to think that was the way to go. Do you recall what they said on that? They seemed to think that we should spread—oh, if I recall they said that the people that were entitled to a reduction in premium because they are covered by medicare in fact are high-risk people so, therefore, they have been receiving, prior to medicare, a favorable premium because their risk has been shoved off down the line. So if you now select them out as a group, you would find that their high risk would probably warrant their getting no reduction in premium.

Mr. RYAN. I think we would have to find some fault with that. They are high-risk people, we recognize that, but we do think that—first of all, we think if they are going to have this kind of benefit, that by providing the supplemental coverages, even with their increased use, when you talk about the sizable portion of that coverage which is provided by medicare, particularly on part A, that there still would be a significant reduction in premiums.

Again, we are not being specific about it, but we have discussed this with our own people.

Mr. WALDIE. It may be a semantical problem I am experiencing with not being familiar enough with the subject, but on page 2 you use the term "FEP supplemental benefits." I thought I understood them to say you could not offer supplemental benefits.

Mr. RYAN. It is really a part of the package of Blue Cross and Blue Shield which defines basic coverage primarily related to the providers, the hospitals and institutions under Blue Cross, CARE and physicians under Blue Shield. We then have other kinds of coverages called major medical in the common parlance of health insurance.

We have it as part of the supplemental package to the basic. It is all rated as one and it is one program that is covered under Blue Cross and Blue Shield.

Mr. WALDIE. I don't know that I understand that.

Mr. RYAN. I think it is a matter of defining the benefits.

Mr. WALDIE. Let me start from where I am, which is way, way back from where we began. I understood Pettengill to tell me that the present law specifically precludes FEP carriers from offering supplemental benefits to medicare subscribers such as NARFE has offered here. But I see you used the term "FEP supplemental benefits." I gather what you are saying is FEP supplemental benefits in fact are not supplemental because the law precludes your offering them.

Mr. RYAN. I think it is a terminology problem. When we talk about "supplemental benefits," it is not supplemental to medicare, it is a program that has been offered since 1960. There are three separate portions of the overall package offered by Blue Cross and Blue Shield to all Federal employees.

It has no relationship to the medicare situation.

Mr. WALDIE. So if Aetna offered a package to all Federal employees that probably would only have an appeal to medicare enrollees, that would be according to the law?

Mr. RYAN. Maybe where we have to go is that Aetna's present design of a program really encompasses our supplemental plus our basic on an entirely different approach to the insurance concept. We again offer service benefits dealing with paying the providers, hospitals and physicians. When we go outside of that area into drugs, into private duty nurses, they have been put into what has been called or designated a supplemental package without relating it to medicare.

Aetna, it is really rolled into one total program that they offer. Perhaps Mr. Harvey, who was here when it all started, and has been the director through the years, might better be able to relate to that.

Mr. WALDIE. Mr. Harvey?

Mr. HARVEY. Mr. Chairman, the word "supplemental" as Mr. Ryan has used it means supplemental to the basic portions of the Blue Cross and Blue Shield total program. This is specifically provided for in the present Federal Employees Health Benefits Act. He was not using the term "supplemental coverage," as it relates to medicare in the part of our testimony that you referred to.

Mr. WALDIE. Well, could a carrier design a program supplemental to their basic program that would have an appeal only to medicare-covered people?

Mr. HARVEY. Not under the present statute, Mr. Chairman.

Mr. WALDIE. Do I understand, then, your position is in opposition to 10687?

Mr. RYAN. Our position is in opposition to it as it is described, which says, "let's develop a new program of benefits and put those on top of medicare." What we are saying is, why not allow the Federal employee to make his choice, high or low options, service or indemnity and simply if he has part A, part B, reduce the rates that he would pay. One of the reasons for that, Mr. Chairman, if I may explain it, the real difficulty—and I think we have discussed this before—in dealing with this vast number of Federal employees trying to get full understanding of a program.

They do it primarily through booklets and it is very difficult through written words. We in Blue Cross and Blue Shield over a period of time have put all of our men wherever they could be available to people, but it still is difficult for people to understand health programs.

I think they are approaching an understanding after these 14 years the present options that are available. It would seem to me if we can base their medicare supplemental on those options, we may be able to explain it a good deal easier and they may be able to appreciate it and make a better choice as to which option they would like to take.

This was one of our considerations. The other has to do with our own administration. We now administer supplemental benefits in this way in most of our major national industries. Therefore our administration is geared this way. If it were to move to a separate complementary area or supplemental type coverage obviously there is a problem in adjusting the mechanism to take care of it in every plan across the country.

Mr. WALDIE. You mean you reduce premiums for medicare-covered people?

Mr. RYAN. This is right. We call it a carveout. We offer the same program and we carve out that sector—obviously, most of those programs are negotiated between management and union. Maybe a hundred percent of the contribution is paid by management so we don't get into the same ramifications of rate.

Mr. WALDIE. Is Mr. Pettengill still around?

Mr. PETTENGILL. Yes, sir.

Mr. WALDIE. Mr. Pettengill, would you come up here?

Mr. PETTENGILL. Surely.

Mr. WALDIE. I am really kind of confused, now. I started confused and my confusion has deepened. What is wrong with the proposal of the Blue Cross that we simply carve these people out and reduce their premiums to reflect the fact that medicare is primary?

Mr. PETTENGILL. There is nothing fundamentally wrong. As a matter of fact, I had never thought that 10687 would not permit that approach. I understand now that there is at least some question about it, because what they are saying is the proposed supplement that they are talking about is in reality precisely what they are doing now except that they would charge a lower premium for it. I would respectfully suggest that there is a problem, however, for those people who are not entitled to part A of medicare, who have only part B—and that is a rather substantial portion of the Federal employees—namely, that the actuarial premium for a reasonable supplement would be higher than the present premium because you are talking about people who are elderly people versus people who are of normal working age.

So if you were to charge the true premium to an individual for either the present service benefits or the present indemnity benefits less the true premium for the part B benefits which they have, you would come out with an actuarial premium that is higher than the present premium, and therefore such an employee would be foolish to take that option.

He should continue to take what he has now.

Mr. WALDIE. Well, let me ask all of you this question. Under 10687, could the employee be presented with the options of being carved out, a reduction of the premium, taking a supplemental benefit if that is what the plan offers, or staying where they are?

Does H.R. 10687 demand that a plan do something other than offer a supplemental or can the supplemental be a reduction in premium? Is that a supplemental? Does a supplemental always have to be an additional benefit or can it be a reduction of premium?

Mr. RYAN. I think it is a matter of intent. The part of that program which exceeds the basic medicare benefits could be interpreted as supplemental and therefore rated as such.

Mr. PETTENGILL. I have always thought that what you just said was going to be permissible under 10687. In other words, the Federal employee or annuitant would have the choice of staying right where he is, and many of them would, or he could take one part of medicare and have a special supplement for that or take the other part and have a special supplement for that, or he could have both parts and take a special supplement for that.

Mr. WALDIE. Would that be a reduction in premium?

Mr. PETTENGILL. I further thought that the special supplement could be a pure reduction in premium.

Now, I am not a lawyer and I would bow to the lawyers as to whether that last thing is permissible.

Mr. WALDIE. In any event, whether it is permissible or not, we can make that determination, that would be what you would desire in terms of legislation and what you, Mr. Pettengill, thought was the case?

Mr. PETTENGILL. Right.

Mr. WALDIE. That would meet the problems that you have discussed, too, Mr. Ryan, would it not?

Mr. RYAN. It would.

Mr. PETTENGILL. You see, sir—

Mr. WALDIE. Let me interrupt you a moment.

If that is the conclusion of the legislation, does that make Mr. Tinsley's concerns even more exaggerated in terms of problems of sorting everybody out?

Mr. TRESNOWSKI. Yes and no, sir.

Mr. PETTENGILL. In terms of describing the benefits, it lessens his problem if everybody went the way of simply reducing the premiums.

In terms of the number of premium accounts he would have, it increases his problem.

Mr. WALDIE. Mr. Tresnowski?

Mr. TRESNOWSKI. I was going to add that point, that the approach that we are suggesting is the simplest administrative one both in terms of the premium offering and in terms of the administration of the benefits.

Mr. WALDIE. You mean of limiting the supplemental to a premium reduction?

Mr. TRESNOWSKI. That's right. Because then all we are dealing with is a series of premium reductions for the various categories. I think there were six.

Mr. WALDIE. Let me then ask Mr. Pettengill this. If you limited the supplementals to a premium reduction—well, now wait a minute. It really would not be a supplemental at that point; it would be mandatory, wouldn't it, if that is all we are going to require is a premium reduction. It would be mandatory.

If it is a supplemental, you have an option between taking an increased benefit or a reduction in premium, it seems to me. If it is a reduction of premium that you are offering, is that really a supplemental if that is all you are offering?

Mr. RYAN. I think we are talking about a supplement to medicare as such, the cost of the program which supplements medicare, which in effect goes to the level of the present options—that does have a rate and that rate is less than the total.

Mr. WALDIE. That is mandatory for everyone that falls in that class?

Mr. RYAN. Ordinarily, yes.

Mr. WALDIE. The supplement, I would think, gives the term—maybe again I am confused because of the semantics of the thing—I thought the supplement envisages an option on the part of the insured to select a supplement.

Mr. HARVEY. Mr. Tresnowski?

Mr. TRESNOWSKI. That is correct. This is called the building block approach, what Mr. Pettengill is suggesting. Ours is a carve-out approach. The carve-out approach is a carve out of an existing benefit package, a carve out to either the high option if that has been the election, or a carve out to the low option.

You are quite correct the only difference is a lower premium depending on which option.

What Mr. Pettengill is suggesting is a building block which says that, "I will offer this—I will offer coverage for the deductible and coinsurance," or, "I will offer that plus something else," or "that plus something else." That is the building block.

So, the subscriber has an option. One difference is an administrative problem. The building block approach is a more complicated administrative program than the carryout approach.

Mr. WALDIE. Do all of you concur that something must be done?

Mr. TRESNOWSKI. Yes.

Mr. RYAN. Yes, sir.

Mr. WALDIE. That in January 1975, we are all confronted with a situation that is difficult if nothing drastic changes?

Mr. PETTENGILL. Yes.

Mr. RYAN. Yes. It would be an almost impossible situation.

Mr. TRESNOWSKI. Yes.

Mr. WALDIE. What we are selecting in terms of that conclusion is 10687 with the two suggested approaches or the Commission's proposal that we simply extend everything a couple more years. Of those three, which would you prefer as a course of action?

I will get back to you, Mr. Pettengill, in just a minute.

Mr. RYAN. I would have to choose the carve out. No. 1, I think it is understandable and, No. 2, I think it follows the general pattern of the major industry.

Mr. WALDIE. Before you respond to that, Mr. Pettengill, in your other major industry cases, how do you handle medicare people?

Mr. PETTENGILL. We give the employer the choice. The vast majority of employers take the building block approach of deciding precisely what they want to do in the way of a supplement, either, for example, paying the part A deductible, the part A copayments, and therefore they buy those specific building blocks as their supplement. That is the vast majority of employers.

On the other hand, the United Automobile Workers, the Steelworkers and some other labor unions have specifically negotiated that all that will happen is the total benefits they had before medicare will be reduced by the medicare benefits so that in reality what you have, therefore, is what Mr. Ryan has proposed, simply a reduction of the employer's costs by reason of the savings which medicare affords.

Mr. WALDIE. When you say, "The employer's costs," that is because the employer is paying all of the cost?

Mr. PETTENGILL. Right.

Now, the point that I would like to make, I think realistically we should go to an approach which permits offering Federal employees medicare supplements as long as we expect to have a medicare program. If medicare is abolished, that is a horse of a different color. But since we have medicare and since it would appear to be on the books for a number of years yet, I have to agree with my friends here, that that would be the right approach.

On the other hand, I am sympathetic with the Federal Government's problem of administration so that I would not oppose a deferment of the effective date. But my problem there is I have tried to read congressional action very carefully and I see no way of getting a deferment this year.

Now therefore, rather than penalize the Federal employees 11 percent for 1975 and probably 1976 and possibly 1977, I prefer to say that some administrative expense should be assumed by the Federal Government and we should proceed with H.R. 10687.

Now, the point that I was trying to make earlier, sir, was that I would ask your attorneys to look very carefully at section 210 of Public Law 92-603. It requires, as I recall, that these medicare supplements be approved by the Secretary of HEW, so that there is this problem, that where as the four of us might be very happy with the supplement, there is no assurance that the Secretary of HEW would.

As I pointed out earlier, a Federal employee, who is not entitled to part A in any way, shape or manner because he was never under the social security and therefore is only entitled to buy part B, wants a supplement to part B which will be very expensive if it is priced on the basis of his own costs. So, he would be actually faced with a supplement whose premium would be higher than his present premium.

I cannot believe the Secretary of HEW would approve such a supplement.

Mr. WALDIE. Let me again try to straighten out my own understanding of the positions here. I gather most of you or all of you concur that the Tinsley recommendation would simply postpone action another 2 years and that is probably not the way to go. Is that general agreement?

Mr. TRESNOWSKI. Yes.

Mr. PETTENGILL. Yes.

Mr. WALDIE. So we are then confronted with H.R. 10687 and in H.R. 10687 we are confronted with either the carve-out theory or Mr. Pettengill's theory.

Mr. PETTENGILL. Right.

Mr. WALDIE. Do I gather, Mr. Pettengill, you think the carve-out theory would be easier to administer than your proposal?

Mr. PETTENGILL. From the point of view of the employee's understanding it is probably a fielder's choice.

Mr. WALDIE. What about for the Civil Service Commission?

Mr. PETTENGILL. For the Civil Service Commission it is somewhat easier because they would not have to describe the building block options. They would merely have to say to the employee, you get what you now have less what you get under medicare. That is a one-sentence description that would apply to every one of the 50 options.

Mr. WALDIE. Would that be equitable for the employee?

Mr. PETTENGILL. Equitable for the employee?

Well, provided that he was smart enough in the case where I just said, that he has B only, that he does not take the supplement and he stays where he is because the price would be less.

Mr. WALDIE. Well, I mean, your approach would be provided if he is smart enough, too. He always has that problem of understanding.

Mr. PETTENGILL. No; I would be careful under my approach to design the building blocks so he would not be hurt.

Mr. WALDIE. I see. The advantages to your proposal over the carve-out are exclusively then, to the employee?

Mr. PETTENGILL. Yes.

Mr. WALDIE. Is your proposal more difficult for the carrier administratively than the carve-out?

Mr. PETTENGILL. Not really.

Mr. RYAN. We would take some exception to that on the basis of our experience.

Mr. WALDIE. I understand. I want you to jump in if there are differences of opinion.

Mr. PETTENGILL. But I think that is because we have a large block of this business in our regular business and you do not.

Mr. RYAN. I think, Mr. Pettengill, what happened was that we gave everybody a free choice and we have sold a little harder on our own convictions. There is one other comment.

Mr. WALDIE. Well, just a moment, Mr. Ryan. Let me follow this out here a minute. Does H.R. 10687 as it is presently drafted preclude going the carve-out theory or the building block theory?

Mr. PETTENGILL. I did not think it did.

Mr. RYAN. We evidently had some question, Mr. Chairman, as to whether or not that demanded a specific new program.

Mr. WALDIE. If it does not preclude it you would support the bill, I presume?

Mr. RYAN. Absolutely.

Mr. WALDIE. And obviously Mr. Pettengill, you would?

Mr. PETTENGILL. Yes.

Mr. WALDIE. Do you both agree that it should not select one theory over the other?

Mr. PETTENGILL. I would agree with that.

Mr. RYAN. I don't think we have any prejudice on that point.

Mr. WALDIE. You have no particular objection to that.

Mr. RYAN. As long as we could develop ours and Mr. Pettengill could develop his.

Mr. WALDIE. Please go ahead, Mr. Ryan.

Mr. RYAN. I was going to make one other comment about carve-out. It seems to me we have experienced some changes in medicare coverage, either deductibles or what-have-you, over the years. The carve-out does not then demand a like change in whatever supplemental program you have. It sort of fits in on a tailor-made basis depending on where medicare goes.

That is where it stops. I think I have seen somewhere this has been a problem.

Mr. PETTENGILL. He is absolutely right. Originally we were very specific and said we would pay \$40 for the hospital. Now what we do is we say we will pay the part A deductible and we will pay the part A copayments. Therefore, our policies automatically adjust whenever the Social Security Administration adjusts the medicare benefits.

So there is no problem with our approach, except the price tag goes up.

Mr. WALDIE. Joe, do you have any questions?

Mr. MOAKLEY. No.

Mr. WALDIE. Gentlemen, do you have anything further you desire to offer?

Mr. RYAN. I have nothing.

Mr. PETTENGILL. No, sir.

Mr. WALDIE. Let me just be sure we have covered all the bases we need for the record. It is a confusing record and I am not knowledgeable enough to know whether I got into it sufficiently.

[Discussion off the record.]

Mr. WALDIE. Identify yourself for the record.

Mr. LOCKHART. Bob Lockhart, assistant counsel. I have looked at Public Law 92-603 and the specific mandates which it lays down. My question is whether or not your approach, your carve-out approach which I understand would call for a merely lower premium, meets the requirements of that public law?

Mr. RYAN. I think we all had that question. What we were saying was that the Secretary could approve this.

Mr. TRESNOWSKI. Our attorneys say it would, but of course the key provisions in section 210 is that the Secretary has to make a determination that it does. That means the Office of General Counsel of HEW would have to get together with the General Counsel of CSC and whatever language was proposed to amend the Federal Employee Health Benefits Act would then be acceptable to the Secretary.

Mr. LOCKHART. Public Law 92-603 does specifically call for supplemental benefits.

Mr. TRESNOWSKI. Right. Our reading of it is that our provisions would be acceptable to the Secretary.

Mr. HARVEY. That is right.

Mr. TRESNOWSKI. Because it would represent a supplemental benefit by virtue of a separate premium.

Mr. WALDIE. Mr. Pettengill?

Mr. PETTENGILL. May I suggest, sir, that you look at the requirement imposed by this year's bill, 264, which says that in no event may the Government's contribution under any option exceed 75 percent of the premium for that option. It seems to me, Bill, under your proposal you have reduced the premium by the value of the medicare benefits.

If you then take 75 percent of that reduced premium you come out below the Government's mandated contribution for the high option, which is what section 210 requires.

So it seems to me that the new law, 264, is a complicating factor and would make many of your desired reductions in violation of that 75-percent rule.

Mr. RYAN. Well, I think we have to take this into consideration at the time we are actually setting what those reductions would be. We have not done it at this time.

Mr. LOCKHART. The Public Law, 92-603, specifically requires that the Government contribution for the supplemental benefits to medicare be equal to the Government's existing contribution for high option which right now is \$29, I believe.

Now this is what that law mandates, that this contribution be made by the Government to the carrier and any excess I imagine would be payable to the employee or to medicare. That seems to be what the committee's report on 92-603 indicates. So that you would not be reducing the Government's contribution.

You can't reduce the Government's contribution. It has to be equal to the Government's contribution for high option.

Mr. RYAN. But it can't surpass 75 percent. Is that what you said?

Mr. LOCKHART. Obviously we have to amend the law, as Mr. Pettengill pointed out, because 75 percent was added subsequent to

92-603. That is a technical problem. But the problem still remains of the Government's contribution under 92-603 being required to at least equal the high option contribution.

Mr. RYAN. That is obviously a complicating factor, one we are going to have to investigate.

Mr. LOCKHART. Right.

Mr. RYAN. We have not done that.

Mr. PETTENGILL. I think Mr. Tinsely is getting at this. People who carry both part A and B of medicare would very clearly have no contribution to make per se, and in addition, would have to receive a check from the Civil Service Commission equal to this excess Government contribution.

What he is saying is, it is one thing to have a lower premium rate which he could easily handle, but when he has to mail a monthly check to these people for the difference, it is quite a complication.

Mr. LOCKHART. And as you understand the law, that is exactly what would be required by 92-603?

Mr. PETTENGILL. If you go purely the reduction route. If you go the building block route then I would build the supplement I would offer the people who have A and B to such a level, that, when you take off this \$29 Government contribution, there is still a very tiny sliver for the employee to pay.

Mr. WALDIE. Any further questions of the subcommittee?

If not, thank you very much, gentlemen. The subcommittee is now adjourned.

[Whereupon, at 11:20 a.m. the subcommittee adjourned subject to call of the Chair.]

[The letters which follow were received for inclusion in the record:]

AMERICAN POSTAL WORKERS UNION, AFL-CIO,
Washington, D.C., March 20, 1974.

HON. JEROME R. WALDIE,
Chairman, Retirement and Employee Benefits Subcommittee, U.S. House Post Office
and Civil Service Committee, Cannon House Office Building, Washington, D.C.

DEAR CHAIRMAN WALDIE: The American Postal Workers Union appreciates the consideration given us by your Committee in permitting us to express our belated views on H.R. 10687, because our National Executive Board was in session at the time of your scheduled hearing.

While we do not oppose H.R. 10687, there seems to be a glaring discriminatory inequity in the bill. We refer specifically to an omission of "Employee Organization Plans."

Therefore, Mr. Chairman, the American Postal Workers Union respectfully requests the bill be amended during the Committee's mark-up session to provide for the inclusion of "Employee Organization Plans."

The American Postal Workers Union Hospital Plan presently covers approximately 31,000 annuitants and desires to participate in any supplemental plan offered to retirees under the provisions of P.L. 92-603.

Thank you for your anticipated consideration and cooperation on this request as well as the many past courtesies extended the American Postal Workers Union.

Sincerely yours,

FRANCIS S. FILBEY,
General President.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., March 12, 1974.

Hon. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 10687, a bill "To provide certain enrollees of Federal health benefit plans coverage supplementary to parts A and B of the medicare program with appropriate Government contribution thereto."

H.R. 10687 would amend the Federal Employees Health Benefits law by providing additional options in the Service Benefit Plan and the Indemnity Benefit Plan offering to eligible employees and annuitants a choice of benefits supplementary to the protection afforded under Part A or B, or both Parts A and B of title XVIII of the Social Security Act (Medicare). It is also obviously intended to enable and require the Commission in administering the Federal Employees Health Benefits law to implement section 1862(c) of the Social Security Act.

Section 1862(c) requires that there be made available to each employee or annuitant enrolled in a Federal employees health benefits plan an option under the plan supplementing Part A or B, or both Parts A and B of Medicare. It further provides that unless such action is taken the Federal Employees Health Benefits program will assume primary, instead of secondary, liability for expenses covered by Medicare on or after January 1, 1975.

While we agree in principle with the objective sought by section 1862(c), we believe that implementation of it, as proposed by H.R. 10687, should be deferred pending enactment of the vastly improved Medicare program which will go into effect with enactment of the Administration's Comprehensive Health Insurance proposal. The Comprehensive Health Insurance Act proposal (H.R. 12684) would extend the improved Medicare benefits to nearly all persons over age 65. Federal employees would participate in the new Medicare program, and at age 65 would qualify for the improved Medicare benefits the same as all other Americans. The package of comprehensive medical, hospital, and related health care benefits would be the same as that available for all other Americans. A transitional provision—similar to that established when the original Medicare law was enacted—would assure that all individuals would have the opportunity to earn entitlement to coverage.

Enactment of the Administration's proposal will require a substantial restructuring of the FEHB law for both present employees and annuitants. This proposal can be effective as early as January 1, 1976, and consideration will need to be given to supplemental coverage under the FEHB program in that context. Accordingly, we do not believe the Commission should be required to undertake the costly and complex administrative task of changing the FEHB system to coordinate with the present Medicare program, as proposed by H.R. 10687, only to have to repeat the process and reeducate Federal employees and annuitants when national health insurance is enacted.

Section 1862(c)(1) of the Social Security Act mandates an extremely complex method of coordination of the Federal Employees Health Benefits program plans with Medicare.

As one example of the administrative problems involved, implementation of section 1862(c)(1) would require development of at least 240 new FEHB options, plus arranging for rebates to some employees and annuitants. H.R. 10687 would be somewhat simpler to administer, but would not meet the requirements of section 1862(c)(1) because it would not provide Medicare supplements for eligible employees or annuitants who participate in 38 FEHB plans—employee organization, group practice or individual practice prepayment plans. Thus, if H.R. 10687 is enacted in its present form, FEHB would still become primarily liable relative to Medicare on January 1, 1975. Further, neither H.R. 10687 nor section 1862(c) addresses the complex problems that flow from the fact that Medicare covers individuals, while FEHB covers families. Finally, there is also a real question whether it is necessary to require supplements for Part A alone and Part B alone. While an option for Parts A and B would cost less, we estimate that the option for Part B alone would cost more, and that for Part A alone about the same or only slightly less than what an employee or annuitant now pays under the Federal Program.

The Commission opposes enactment of H.R. 10687. Instead, we will shortly submit legislation recommending that the Congress take prompt action to postpone the effective date (January 1, 1975) of section 1862(c) of the Social Security Act to coincide with the effective date of a national health insurance law in which Federal employees and annuitants will undoubtedly participate.

The Office of Management and Budget has advised that, from the standpoint of the Administration's position, there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 14, 1974.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service, House of Representatives,
Cannon House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on H.R. 10687, "To provide certain enrollees of Federal health benefit plans coverage supplementary to parts A and B of the medicare program with appropriate Government contribution thereto."

The purpose of this bill is to permit the addition of options supplementary to Medicare under the Federal Employees Health Benefits program and the rebate of any excess Government contribution, to implement section 1862(c) of the Social Security Act.

In its report, the Civil Service Commission states its reasons for recommending against enactment of H.R. 10687. The Commission indicates that it agrees in principle with the objective of section 1862(c), but believes that action to provide FEHB coverage supplementary to Medicare should be deferred pending enactment of the improved Medicare program provided under the Administration's Comprehensive Health Insurance Proposal, which would include Federal employees on the same basis as all other Americans.

For these reasons, we recommend against enactment of H.R. 10687.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference

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