

Public Law 92-603

AN ACT

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

October 30, 1972
[H. R. 1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Social Security Amendments of 1972".

Social Security
Amendments of
1972.

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TITLE I—PROVISIONS RELATING TO OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT

SEC. 101. (a) Section 215(a) of the Social Security Act is amended—

Ante, p. 410.

(1) by striking out "paragraph (2)" in the matter preceding subparagraph (A) of paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by inserting after paragraph (2) the following:

"(3) Such primary insurance amount shall be an amount equal to \$8.50 multiplied by the individual's years of coverage in excess of 10 in any case in which such amount is higher than the individual's primary insurance amount as determined under paragraph (1) or (2).

"Years of coverage."

For purposes of paragraph (3), an individual's 'years of coverage' is the number (not exceeding 30) equal to the sum of (i) the number (not exceeding 14 and disregarding any fraction) determined by dividing the total of the wages credited to him (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by \$900, plus (ii) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b) (2) (C)) and in each

64 Stat. 512.

42 USC 417.

50 Stat. 307.

45 USC 228a.

Post, p. 1367.

64 Stat. 512.
42 USC 417.
50 Stat. 307.
45 USC 228a.
Post, p. 1352.

72 Stat. 1017;
Ante, p. 411.

Ante, p. 1333.

Ante, p. 406.

Ante, p. 410.

42 USC 423.

Ante, p. 412.

Ante, p. 411.

"Primary insurance amount."

Ante, p. 1333.

Ante, p. 411.

Ante, p. 412.

of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year."

(b) Section 203(a) of such Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and by inserting after paragraph (4) the following new paragraph:

"(5) whenever the monthly benefits of such individuals are based on an insured individual's primary insurance amount which is determined under section 215(a)(3) and such primary insurance amount does not appear in column IV of the table in (or deemed to be in) section 215(a), the applicable maximum amount in column V of such table shall be the amount in such column that appears on the line on which the next higher primary insurance amount appears in column IV, or, if larger, the largest amount determined for such persons under this subsection for any month prior to October 1972."

(c) Section 215(a)(2) of such Act is amended by striking out "such primary insurance amount shall be" and all that follows and inserting in lieu thereof the following:

"such primary insurance amount shall be—

"(A) the amount in column IV of such table which is equal to the primary insurance amount upon which such disability insurance benefit is based; except that if such individual was entitled to a disability insurance benefit under section 223 for the month before the effective month of a new table (whether enacted by another law or deemed to be such table under subsection (i)(2)(D)) and in the following month became entitled to an old-age insurance benefit, or he died in such following month, then his primary insurance amount for such following month shall be the amount in column IV of the new table on the line on which in column II of such table appears his primary insurance amount for the month before the effective month of the table (as determined under subsection (c)) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based. For purposes of this paragraph, the term 'primary insurance amount' with respect to any individual means only a primary insurance amount determined under paragraph (1) (and such individual's benefits shall be deemed to be based upon the primary insurance amount as so determined); or

"(B) an amount equal to the primary insurance amount upon which such disability insurance benefit is based if such primary insurance amount was determined under paragraph (3)."

(d) Section 215(f)(2) of such Act is amended by striking out "subsection (a)(1) (A) and (C)" and inserting in lieu thereof "subsections (a)(1) (A) and (C) and (a)(3)".

(e) Section 215(i)(2)(A)(ii) of such Act is amended by striking out "under this title" and inserting in lieu thereof "under this title (but not including a primary insurance amount determined under subsection (a)(3) of this section)".

(f) Whenever an insured individual is entitled to benefits for a month which are based on a primary insurance amount under paragraph (1) or paragraph (3) of section 215(a) of the Social Security

Act and for the following month such primary insurance amount is increased or such individual becomes entitled to benefits on a higher primary insurance amount under a different paragraph of such section 215(a), such individual's old-age or disability insurance benefit (beginning with the effective month of the increased primary insurance amount) shall be increased by an amount equal to the difference between the higher primary insurance amount and the primary insurance amount on which such benefit was based for the month prior to such effective month, after the application of section 202(q) of such Act where applicable, to such difference.

(g) The amendments made by this section shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months after December 1972 (without regard to when the insured individual became entitled to such benefits or when he died) and with respect to lump-sum death payments under such title in the case of deaths occurring after such month.

Ante, p. 1333.

Ante, p. 410.

Post, pp. 1336-1338.

Effective date.
53 Stat. 1362.
42 USC 401.

INCREASED WIDOW'S AND WIDOWER'S INSURANCE BENEFITS

SEC. 102. (a) (1) Section 202(e) (1) of the Social Security Act is amended—

(A) by striking out "82½ percent of" wherever it appears;

(B) by striking out "entitled, after attainment of age 62, to wife's insurance benefits," in subparagraph (C) (i) and inserting in lieu thereof "entitled to wife's insurance benefits," and by striking out "or" at the end of clause (i) in such subparagraph and inserting in lieu thereof "and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or"; and

(C) by striking out "age 62" in subparagraph (C) (ii), and in the matter following subparagraph (G), and inserting in lieu thereof in each instance "age 65".

(2) Paragraph (2) of section 202(e) of such Act is amended to read as follows:

"(2) (A) Except as provided in subsection (q), paragraph (4) of this subsection, and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount of such deceased individual.

"(B) If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitled to widow's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

"(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living, and

"(ii) 82½ percent of the primary insurance amount of such deceased individual.

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii)."

(b) (1) Section 202(f) (1) of such Act is amended—

(A) by striking out "82½ percent of" wherever it appears;

(B) by striking out "died," in subparagraph (C) and inserting in lieu thereof "died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223,"; and

79 Stat. 376;
81 Stat. 828;
Post, p. 1348.
42 USC 402.

42 USC 423.

75 Stat. 131;
79 Stat. 368.

64 Stat. 485;
81 Stat. 829;
Post, p. 1336.

(C) by striking out "age 62" in the matter following subparagraph (G) and inserting in lieu thereof "age 65".

(2) Paragraph (3) of section 202(f) of such Act is amended to read as follows:

"(3) (A) Except as provided in subsection (q), paragraph (5) of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount of his deceased wife.

"(B) If the deceased wife (on the basis of whose wages and self-employment income a widower is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widower's insurance benefit of such widower for any month shall, if the amount of the widower's insurance benefit of such widower (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

"(i) the amount of the old-age insurance benefit to which such deceased wife would have been entitled (after application of subsection (q)) for such month if such wife were still living; and

"(ii) 82½ percent of the primary insurance amount of such deceased wife;

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii)."

(c) (1) The last sentence of section 203(c) of such Act is amended by striking out all that follows the semicolon and inserting in lieu thereof the following: "nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 62)."

(2) Clause (D) of section 203(f) (1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 62), or".

(d) Section 202(k) (3) (A) of such Act is amended by striking out "subsection (q) and" and inserting in lieu thereof "subsection (q), subsection (e) (2) or (f) (3), and".

(e) (1) Section 202(q) (1) of such Act is amended to read as follows:

"(1) If the first month for which an individual is entitled to an old-age, wife's, husband's, widow's, or widower's insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for such month and for any subsequent month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

"(A) 5/9 of 1 percent of such amount if such benefit is an old-age insurance benefit, 25/36 of 1 percent of such amount if such benefit is a wife's or husband's insurance benefit, or 19/40 of 1 percent of such amount if such benefit is a widow's or widower's insurance benefit, multiplied by—

"(B) (i) the number of months in the reduction period for such benefit (determined under paragraph (6) (A)), if such benefit is for a month before the month in which such individual attains retirement age, or

Widower's benefits.

75 Stat. 138;

79 Stat. 404.

42 USC 402.

75 Stat. 131;

79 Stat. 368.

74 Stat. 954;

81 Stat. 832.

42 USC 403.

81 Stat. 832;

Post, p. 1343.

70 Stat. 814;

79 Stat. 404.

Ante, p. 1335;

Supra.

Benefit reductions.

79 Stat. 374;

81 Stat. 830.

42 USC 402.

81 Stat. 831.

“(ii) if less, the number of such months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is (I) for the month in which such individual attains age 62, or (II) for the month in which such individual attains retirement age;

Infra.

and in the case of a widow or widower whose first month of entitlement to a widow's or widower's insurance benefit is a month before the month in which such widow or widower attains age 60, such benefit, reduced pursuant to the preceding provisions of this paragraph (and before the application of the second sentence of paragraph (8)), shall be further reduced by—

75 Stat. 131;
79 Stat. 368.
42 USC 402.

“(C) $\frac{43}{240}$ of 1 percent of the amount of such benefit, multiplied by—

“(D)(i) the number of months in the additional reduction period for such benefit (determined under paragraph (6)(B)), if such benefit is for a month before the month in which such individual attains age 62, or

81 Stat. 831.

“(ii) if less, the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains age 62 or any month thereafter.”

(2) Section 202(q)(3) of such Act is amended—

75 Stat. 131;
79 Stat. 368, 369,
374.

(A) by striking out clause (ii) of subparagraph (E) and inserting in lieu thereof the following:

“(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such old-age insurance benefit would be reduced under paragraph (1) if it were equal to the excess of such old-age insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection)”.

(B) by striking out clause (ii) of subparagraph (F) and inserting in lieu thereof the following:

“(ii) the amount equal to the sum of (I) the amount by which such widow's or widower's insurance benefit would be reduced under paragraph (1) if the period specified in paragraph (6)(A) ended with the month before the month in which she or he attained age 62 and (II) the amount by which such disability insurance benefit would be reduced under paragraph (2) if it were equal to the excess of such disability insurance benefit (before reduction under this subsection) over such widow's or widower's insurance benefit (before reduction under this subsection)”.

(C) by striking out “had such individual attained age 62 in” in subparagraph (G) and inserting in lieu thereof “as if the period specified in paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B)) ended with the month before”.

(3) Section 202(q)(7) of such Act is amended—

(A) by striking out everything that precedes subparagraph (A) and inserting in lieu thereof the following:

“Adjusted reduction period.”

“(7) For purposes of this subsection the ‘adjusted reduction period’ for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6)(A) for such benefit, and the ‘additional adjusted reduction period’ for an individual's, widow's, or widower's insurance benefit is the additional reduction period prescribed by paragraph (6)(B) for such benefit, excluding from each such period—”; and

“Additional adjusted reduction period.”

(B) by striking out "attained retirement age" in subparagraph (E) and inserting in lieu thereof "attained age 62, and also for any later month before the month in which he attained retirement age,".

"Retirement age."

79 Stat. 375.

42 USC 402.

Ante, p. 1337.

(4) Section 202(q)(9) of such Act is amended to read as follows:

"(9) For purposes of this subsection, the term 'retirement age' means age 65."

(5) Section 202(q)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

"(H) Notwithstanding subparagraph (A) of this paragraph, if the first month for which an individual is entitled to a widow's or widower's insurance benefit is a month for which such individual is also entitled to an old-age insurance benefit to which such individual was first entitled for a month before she or he became entitled to a widow's or widower's benefit, the reduction in such widow's or widower's insurance benefit shall be determined under paragraph (1)."

(f) Section 202(m) of such Act is amended to read as follows:

68 Stat. 1073;

72 Stat. 1017.

"Minimum Survivor's Benefit

"(m)(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for such month on the basis of such wages and self-employment income, such individual's benefit amount for such month, prior to reduction under subsection (k)(3), shall be not less than the first amount appearing in column IV of the table in (or deemed to be in) section 215(a), except as provided in paragraph (2).

64 Stat. 487.

Ante, p. 1336.

Ante, p. 406.

"(2) In the case of any such individual who is entitled to a monthly benefit under subsection (e) or (f), such individual's benefit amount, after reduction under subsection (q)(1), shall be not less than—

Ante, pp. 1335,
1336.

"(A) \$84.50, if his first month of entitlement to such benefit is the month in which such individual attained age 62 or a subsequent month, or

81 Stat. 831.

Supra.

"(B) \$84.50 reduced under subsection (q)(1) as if retirement age as specified in subsection (q)(6)(A)(ii) were age 62 instead of the age specified in subsection (q)(9), if his first month of entitlement to such benefit is before the month in which he attained age 62.

"(3) In the case of any individual whose benefit amount was computed (or recomputed) under the provisions of paragraph (2) and such individual was entitled to benefits under subsection (e) or (f) for a month prior to any month after 1972 for which a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under section 215(i) becomes effective, the benefit amount of such individual as computed under paragraph (2) without regard to the reduction specified in subparagraph (B) thereof shall be increased by the percentage increase applicable for such benefit increase, prior to the application of subsection (q)(1) pursuant to paragraph (2)(B) and subsection (q)(4)."

Ante, p. 412.

75 Stat. 131;

79 Stat. 368.

(g)(1) In the case of an individual who is entitled to widow's or widower's insurance benefits for the month of December 1972 the Secretary shall, if it would increase such benefits, redetermine the amount of such benefits for months after December 1972 under title II of the Social Security Act as if the amendments made by this section had been in effect for the first month of such individual's entitlement to such benefits.

53 Stat. 1362.
42 USC 401.

(2) For purposes of paragraph (1)—

(A) any deceased individual on whose wages and self-employment income the benefits of an individual referred to in paragraph (1) are based, shall be deemed not to have been entitled to benefits if the record, of insured individuals who were entitled to benefits, that is readily available to the Secretary contains no entry for such deceased individual; and

(B) any deductions under subsections (b) and (c) of section 203 of such Act, applicable to the benefits of an individual referred to in paragraph (1) for any month prior to September 1965, shall be disregarded in applying the provisions of section 202(q) (7) of such Act (as amended by this Act).

74 Stat. 953.
42 USC 403.

Ante, p. 1337.

(h) Where—

(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act for December 1972 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202, and

64 Stat. 482.

Ante, pp. 1335,
1336.

(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 (as amended by this section) for January 1973, and

(3) the total of benefits to which all persons are entitled under section 202 of such Act on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act, as amended by this Act (or would, but for the penultimate sentence of such section 203(a), be so reduced),

72 Stat. 1017;
Ante, p. 410.

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after December 1972 shall in no case be less after the application of this section and such section 203(a) than the amount it would have been without the application of this section.

(i) The amendments made by this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1972.

Effective date.
53 Stat. 1362.
42 USC 401.

DELAYED RETIREMENT CREDIT

SEC. 103. (a) Section 202 of the Social Security Act is amended by adding after subsection (v) thereof the following:

64 Stat. 482;
79 Stat. 392.

“Increase in Old-Age Insurance Benefit Amounts on Account of
Delayed Retirement

“(w) (1) If the first month for which an old-age insurance benefit becomes payable to an individual is not earlier than the month in which such individual attains age 65 (or his benefit payable at such age is not reduced under subsection (q)), the amount of the old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215(a) (3)) which is payable without regard to this subsection to such individual shall be increased by—

Ante, pp. 1336-
1338.

Ante, p. 1333.

“(A) $\frac{1}{12}$ of 1 percent of such amount, multiplied by

“(B) the number (if any) of the increment months for such individual.

“(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

“(A) which have elapsed after the month before the month in which such individual attained age 65 or (if later) December 1970 and prior to the month in which such individual attained age 72, and

“(B) with respect to which—

Infra.

“(i) such individual was a fully insured individual (as defined in section 214(a)), and

74 Stat. 953.
42 USC 403.

“(ii) such individual either was not entitled to an old-age insurance benefit or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit.

“(3) For purposes of applying the provisions of paragraph (1), a determination shall be made under paragraph (2) for each year, beginning with 1972, of the total number of an individual's increment months through the year for which the determination is made and the total so determined shall be applicable to such individual's old-age insurance benefits beginning with benefits for January of the year following the year for which such determination is made; except that the total number applicable in the case of an individual who attains age 72 after 1972 shall be determined through the month before the month in which he attains such age and shall be applicable to his old-age insurance benefit beginning with the month in which he attains such age.

“(4) This subsection shall be applied after reduction under section 203(a).”

70 Stat. 818.
42 USC 202.

(b) The matter following paragraph (3) of section 202(a) of such Act is amended by inserting “and subsection (w)” after “subsection (q)”.

Ante, p. 415.

(c) Effective January 1, 1974, section 203(a)(2)(C) of such Act is amended by striking out “determined under this title” and inserting in lieu thereof “determined under this title (excluding any part thereof determined under section 202(w))”.

Ante, p. 1339.

Effective date.

(d) The amendments made by this section shall be applicable with respect to old-age insurance benefits payable under title II of the Social Security Act for months beginning after 1972.

53 Stat. 1362.
42 USC 401.

AGE-62 COMPUTATION POINT FOR MEN

75 Stat. 137.
42 USC 414.

SEC. 104. (a) Section 214(a)(1) of the Social Security Act is amended by striking out “before—” and all that follows down through “except” and inserting in lieu thereof the following:

“before the year in which he died or (if earlier) the year in which he attained age 62, except”.

42 USC 415.

(b) Section 215(b)(3) of such Act is amended by striking out “before—” and all that follows down through “For” and inserting in lieu thereof the following:

“before the year in which he died, or if it occurred earlier but after 1960, the year in which he attained age 62. For”.

74 Stat. 967;
Post, p. 1351.
42 USC 423.

(c) Section 223(a)(2) of such Act is amended—

(1) by striking out “(if a woman) or age 65 (if a man)”;

(2) by striking out “in the case of a woman” and inserting in lieu thereof “in the case of an individual”, and

(3) by striking out “she” and inserting in lieu thereof “he”.

(d) Section 223(c)(1)(A) of such Act is amended by striking out “(if a woman) or age 65 (if a man)”.

42 USC 427.

(e) Section 227(a) of such Act is amended by striking out “so much of paragraph (1) of section 214(a) as follows clause (C)” and inserting in lieu thereof “paragraph (1) of section 214(a)”.

Supra.

(f) Section 227(b) of such Act is amended by striking out “so much of paragraph (1) thereof as follows clause (C)” and inserting in lieu thereof “paragraph (1) thereof”.

(g) Sections 209(i) and 216(i)(3)(A), of such Act are amended by striking out "(if a woman) or age 65 (if a man)".

42 USC 409,
416.

(h) Section 303(g)(1) of the Social Security Amendments of 1960 is amended—

42 USC 415
note.

(1) by striking out "Amendments of 1965 and 1967" and inserting in lieu thereof "Amendments of 1965, 1967, 1969, and 1972 (and by Public Law 92-5)"; and

(2) by striking out "Amendments of 1967" wherever it appears and inserting in lieu thereof "Amendments of 1972".

(i) Paragraph (9) of section 3121(a) of the Internal Revenue Code of 1954 (relating to definition of wages) is amended to read as follows:

70 Stat. 839.
26 USC 3121.

"(9) any payment (other than vacation or sick pay) made to an employee after the month in which he attains age 62, if such employee did not work for the employer in the period for which such payment is made;"

(j)(1) The amendments made by this section (except the amendment made by subsection (i), and the amendment made by subsection (g) to section 209(i) of the Social Security Act) shall apply only in the case of a man who attains (or would attain) age 62 after December 1974. The amendment made by subsection (i), and the amendment made by subsection (g) to section 209(i) of the Social Security Act, shall apply only with respect to payments after 1974.

Effective dates.

(2) In the case of a man who attains age 62 prior to 1975, the number of his elapsed years for purposes of section 215(b)(3) of the Social Security Act shall be equal to (A) the number determined under such section as in effect on September 1, 1972, or (B) if less, the number determined as though he attained age 65 in 1975, except that monthly benefits under title II of the Social Security Act for months prior to January 1973 payable on the basis of his wages and self-employment income shall be determined as though this section had not been enacted.

Ante, p. 1340.

(3)(A) In the case of a man who attains or will attain age 62 in 1973, the figure "65" in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act shall be deemed to read "64".

Ante, p. 1340;
Supra.

(B) In the case of a man who attains or will attain age 62 in 1974, the figure "65" in sections 214(a)(1), 223(c)(1)(A), and 216(i)(3)(A) of the Social Security Act shall be deemed to read "63".

LIBERALIZATION AND AUTOMATIC ADJUSTMENT OF EARNINGS TEST

SEC. 105. (a)(1) Paragraphs (1) and (4)(B) of section 203(f) of the Social Security Act are each amended by striking out "\$140" and inserting in lieu thereof "\$175 or the exempt amount as determined under paragraph (8)".

42 USC 403.

(2) Paragraph (1)(A) of section 203(h) of such Act is amended by striking out "\$140" and inserting in lieu thereof "\$175 or the exempt amount as determined under subsection (f)(8)".

(3) Paragraph (3) of section 203(f) of such Act is amended to read as follows:

Post, p. 1342.

"(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of \$175 or the exempt amount as determined under paragraph (8), multiplied by the number of months in such year. The excess earnings as derived under the preceding sentence, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1."

(b) Section 203(f) of such Act is amended by adding at the end thereof the following new paragraph:

Ante, p. 1334.

Publication in
Federal Register.

"(8)(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the first month of the calendar year following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs (along with the publication of such benefit increase as required by section 215(i)(2)(D)) a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends with the close of or after the calendar year with the first month of which such benefit increase is effective (or, in the case of an individual who dies during such calendar year, with respect to such individual's taxable year which ends, upon his death, during such year.

"(B) The exempt amount for each month of a particular taxable year shall be whichever of the following is the larger—

"(i) the exempt amount which was in effect with respect to months in the taxable year in which the determination under subparagraph (A) was made, or

"(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year in which the determination under subparagraph (A) was made to (II) the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under section 230(a), with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.

Ante, p. 417.

Estimated in-
crease, notice
to congressional
committees.

Whenever the Secretary determines that the exempt amount is to be increased in any year under this paragraph, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance no later than August 15 of such year of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

"(C) Notwithstanding the determination of a new exempt amount by the Secretary under subparagraph (A) (and notwithstanding any publication thereof under such subparagraph or any notification thereof under the last sentence of subparagraph (B)), such new exempt amount shall not take effect pursuant thereto if during the calendar year in which such determination is made a law increasing the exempt amount or providing a general benefit increase under this title (as defined in section 215(i)(3)) is enacted."

Effective date.

(c) The amendments made by this section shall apply with respect to taxable years ending after December 1972.

EXCLUSION OF CERTAIN EARNINGS IN YEAR OF ATTAINING AGE 72

SEC. 106. (a) The first sentence of section 203(f)(3) of the Social Security Act (as amended by section 105(a)(3) of this Act) is further amended by inserting before the period at the end thereof the following: "except that, in determining an individual's excess earnings for the taxable year in which he attains age 72, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary)".

(b) The amendment made by subsection (a) shall apply with respect to taxable years ending after December 1972.

Effective date.

REDUCED BENEFITS FOR WIDOWERS AT AGE 60

SEC. 107. (a) Section 202(f) of the Social Security Act (as amended by section 102(b) of this Act) is further amended—

(1) by striking out “age 62” each place it appears in subparagraph (B) of paragraph (1) and in paragraph (6) and inserting in lieu thereof “age 60”;

(2) by striking out “or the third month” in the matter following subparagraph (G) in paragraph (1) and inserting in lieu thereof “or, if he became entitled to such benefits before he attained age 60, the third month”; and

(3) by striking out “the age of 62” in paragraph (5) and inserting in lieu thereof “the age of 60”.

(b) (1) The last sentence of section 203(c) of such Act (as amended by section 102(c) (1) of this Act) is further amended by striking out “age 62” and inserting in lieu thereof “age 60”.

(2) Clause (D) of section 203(f) (1) of such Act as amended by section 102(c) (2) of this Act) is further amended by striking out “age 62” and inserting in lieu thereof “age 60”.

Ante, p. 1336.

(3) Section 222(b) (1) of such Act is amended by striking out “a widow or surviving divorced wife who has not attained age 60, a widower who has not attained age 62” and inserting in lieu thereof “a widow, widower or surviving divorced wife who has not attained age 60”.

42 USC 422.

(4) Section 222(d) (1) (D) of such Act is amended by striking out “age 62” each place it appears and inserting in lieu thereof “age 60”.

81 Stat. 832;
Post, p. 1360.

(5) Section 225 of such Act is amended by striking out “age 62” and inserting in lieu thereof “age 60”.

42 USC 425.

(c) The amendments made by this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1972, except that in the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1972 such amendments shall apply only on the basis of an application filed in or after the month in which this Act is enacted.

Effective date.
53 Stat. 1362.
42 USC 401.

ENTITLEMENT TO CHILD'S INSURANCE BENEFITS BASED ON DISABILITY WHICH BEGAN BETWEEN AGE 18 AND 22

SEC. 108. (a) Clause (ii) of section 202(d) (1) (B) of the Social Security Act is amended by striking out “which began before he attained the age of eighteen” and inserting in lieu thereof “which began before he attained the age of 22”.

(b) Subparagraphs (F) and (G) of section 202(d) (1) of such Act are amended to read as follows:

79 Stat. 370.
42 USC 402.

“(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

“(i) the first month during no part of which he is a full-time student, or

“(ii) the month in which he attains the age of 22, but only if he was not under a disability (as so defined) in such earlier month; or

“(G) if such child was under a disability (as so defined) at the time he attained the age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the

age of 22, the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

“(i) the first month during no part of which he is a full-time student, or

“(ii) the month in which he attains the age of 22, but only if he was not under a disability (as so defined) in such earlier month.”

Ante, p. 1343.

(c) Section 202(d)(1) of such Act is further amended by adding at the end thereof the following new sentence: “No payment under this paragraph may be made to a child who would not meet the definition of disability in section 223(d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.”

81 Stat. 868.
42 USC 423.

42 USC 402.

(d) Section 202(d)(6) of such Act is amended by striking out “in which he is a full-time student and has not attained the age of 22” and all that follows and inserting in lieu thereof “in which he—

“(A)(i) is a full-time student or is under a disability (as defined in section 223(d)), and (ii) had not attained the age of 22, or

“(B) is under a disability (as so defined) which began before the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability, but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

“(C) the first month in which an event specified in paragraph (1)(D) occurs;

“(D) the earlier of (i) the first month during no part of which he is a full-time student or (ii) the month in which he attains the age of 22, but only if he is not under a disability (as so defined) in such earlier month; or

“(E) if he was under a disability (as so defined), the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

“(i) the first month during no part of which he is a full-time student, or

“(ii) the month in which he attains the age of 22.”

(e) Section 202(s) of such Act is amended—

(1) by striking out “which began before he attained such age” in paragraph (1); and

(2) by striking out “which began before such child attained the age of 18” in paragraphs (2) and (3).

Effective dates.

(f) The amendments made by this section shall apply only with respect to monthly benefits under section 202 of the Social Security Act for months after December 1972 except that in the case of an individual who was not entitled to a monthly benefit under such section 202 for December 1972 such amendments shall apply only on the basis of an application filed after September 30, 1972.

(g) Where—

Post, p. 1351.

(1) one or more persons are entitled (without the application of sections 202(j)(1) and 223(b) of the Social Security Act) to monthly benefits under section 202 or 223 of such Act for December 1972 on the basis of the wages and self-employment income of an insured individual, and

(2) one or more persons (not included in paragraph (1)) are entitled to monthly benefits under such section 202 or 223 for January 1973 solely by reason of the amendments made by this section on the basis of such wages and self-employment income, and

(3) the total of benefits to which all persons are entitled under such sections 202 and 223 on the basis of such wages and self-employment income for January 1973 is reduced by reason of section 203(a) of such Act as amended by this Act (or would, but for the penultimate sentence of such section 203(a), be so reduced),

42 USC 402,
423.
Anfe, p. 410.

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled for months after December 1972 shall be adjusted, after the application of such section 203(a), to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2).

CONTINUATION OF CHILD'S BENEFITS THROUGH END OF SEMESTER

SEC. 109. (a) Paragraph (7) of section 202(d) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

79 Stat. 371.
42 USC 402.

"(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B)) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs)."

(b) The amendment made by subsection (a) shall apply only with respect to benefits payable under title II of the Social Security Act for months after December 1972.

Effective date.
53 Stat. 1362.
42 USC 401.

CHILD'S BENEFITS IN CASE OF CHILD ENTITLED ON MORE THAN ONE WAGE RECORD

SEC. 110. (a) Section 202(k)(2)(A) of the Social Security Act is amended to read as follows:

64 Stat. 482.

"(2)(A) Any child who under the preceding provisions of this section is entitled for any month to child's insurance benefits on the wages and self-employment income of more than one insured individual shall, notwithstanding such provisions, be entitled to only one of such child's insurance benefits for such month. Such child's insurance benefits for such month shall be the benefit based on the wages and self-employment income of the insured individual who has the greatest primary insurance amount, except that such child's insurance benefits for such month shall be the largest benefit to which such child could be entitled under subsection (d) (without the application of section 203(a)) or subsection (m) if entitlement to such benefit would not, with respect to any person, result in a benefit lower (after the application of section 203(a)) than the benefit which would be applicable if such child were entitled on the wages and self-employment income of the individual with the greatest primary insurance amount. Where more than one

child is entitled to child's insurance benefits pursuant to the preceding provisions of this paragraph, each such child who is entitled on the wages and self-employment income of the same insured individuals shall be entitled on the wages and self-employment income of the same such insured individual."

Effective date.

53 Stat. 1362.

42 USC 401.

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits under title II of the Social Security Act for months after December 1972.

ADOPTIONS BY DISABILITY AND OLD-AGE INSURANCE BENEFICIARIES

Ante, pp. 1343-1345.

SEC. 111. (a) Section 202(d) of the Social Security Act is amended by striking out paragraphs (8) and (9) and inserting in lieu thereof the following new paragraph:

"(8) In the case of—

"(A) an individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or

"(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed not to meet the requirements of clause (i) or (iii) of paragraph (1) (C) unless such child—

"(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

"(D) (i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States,

"(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such period of disability began, or (II) if he is an individual referred to in subparagraph (B), for the year immediately before the month in which began the period of disability of such individual which still exists at the time of adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefits, and

"(iii) had not attained the age of 18 before he began living with such individual.

In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of birth of such child."

(b) The amendment made by subsection (a) shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after December 1967 on the basis of an application filed in or after the month in which this Act is enacted; except that such amendments shall not apply with respect to benefits for any month before the month in which this Act is enacted unless such application is filed before the close of the sixth month after the month in which this Act is enacted.

Effective date.

53 Stat. 1362.
42 USC 401.

CHILD'S INSURANCE BENEFITS NOT TO BE TERMINATED BY REASON OF ADOPTION

SEC. 112. (a) Paragraph (1)(D) of section 202(d) of the Social Security Act is amended by striking out "marries" and all that follows and inserting in lieu thereof "or marries,".

79 Stat. 371.
42 USC 402.

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits under title II of the Social Security Act for months beginning with the month in which this Act is enacted.

Effective date.

(c) Any child—

(1) whose entitlement to child's insurance benefits under section 202(d) of the Social Security Act was terminated by reason of his adoption, prior to the date of the enactment of this Act, and

(2) who, except for such adoption, would be entitled to child's insurance benefits under such section for a month after the month in which this Act is enacted,

may, upon filing application for child's insurance benefits under the Social Security Act after the date of enactment of this Act, become reentitled to such benefits; except that no child shall, by reason of the enactment of this section, become reentitled to such benefits for any month prior to the month after the month in which this Act is enacted.

BENEFITS FOR CHILD BASED ON EARNINGS RECORD OF GRANDPARENT

SEC. 113. (a) The first sentence of section 216(e) of the Social Security Act is amended—

74 Stat. 950.
42 USC 416.

(1) by striking out "and" at the end of clause (1), and

(2) by inserting immediately before the period at the end thereof the following: "and (3) a person who is the grandchild or stepgrandchild of an individual or his spouse, but only if (A) there was no natural or adoptive parent (other than such a parent who was under a disability, as defined in section 223(d)) of such person living at the time (i) such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (ii) if such individual had a period of disability which continued until such individual became entitled to old-age insurance benefits or disability insurance benefits, or died, at the time such period of disability began, or (B) such person was legally adopted after the death of such individual by such individual's surviving spouse in an adoption that was decreed by a court of competent jurisdiction within the United States and such person's natural or adopting parent or stepparent was not living in such individual's household and making regular contributions toward such person's support at the time such individual died".

42 USC 423.

(b) Section 202(d) of such Act (as amended by section 111 of this Act) is further amended by adding at the end thereof the following new paragraph:

Ante, p. 1346.

Ante, p. 1347.

42 USC 416.

"(9) (A) A child who is a child of an individual under clause (3) of the first sentence of section 216(e) and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1) (C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual (I) for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

"(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child's birth."

Effective date.

53 Stat. 1362.

42 USC 401.

(c) The amendments made by this section shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after December 1972, but only on the basis of applications filed on or after the date of the enactment of this Act.

ELIMINATION OF SUPPORT REQUIREMENT AS CONDITION OF BENEFITS FOR DIVORCED AND SURVIVING DIVORCED WIVES

79 Stat. 375.

42 USC 402.

SEC. 114. (a) Section 202(b) (1) of the Social Security Act is further amended—

(1) by adding "and" at the end of subparagraph (C),

(2) by striking out subparagraph (D), and

(3) by redesignating subparagraphs (E) through (L) as subparagraphs (D) through (K), respectively.

Ante, p. 1335.

(b) (1) Section 202(e) (1) of such Act (as amended by section 102 (a) of this Act) is further amended—

(A) by adding "and" at the end of subparagraph (C),

(B) by striking out subparagraph (D), and

(C) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively.

81 Stat. 829;

Post, p. 1350.

(2) Section 202(e) (6) of such Act is amended by striking out "paragraph (1) (G)" and inserting in lieu thereof "paragraph (1) (F)".

79 Stat. 378.

(c) Section 202(g) (1) (F) of such Act is amended by striking out clause (i), and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

Effective date.

(d) The amendments made by this section shall apply only with respect to benefits payable under title II of the Social Security Act for months after December 1972 on the basis of applications filed on or after the date of enactment of this Act.

(e) Where—

Post, p. 1351.

42 USC 423.

(1) one or more persons are entitled (without the application of sections 202(j) (1) and 223 (b) of the Social Security Act) to monthly benefits under section 202 or 223 of such Act for December 1972 on the basis of the wages and self-employment income of an insured individual, and

(2) one or more persons (not included in paragraph (1)) are entitled to monthly benefits under such section 202(g) as a surviving divorced mother (as defined in section 216(d)(3)) for a month after December 1972 on the basis of such wages and self-employment income, and

Ante, p. 1348.
79 Stat. 377.
42 USC 416.

(3) the total of benefits to which all persons are entitled under such section 202 and 223 on the basis of such wages and self-employment income for any month after December 1972 is reduced by reason of section 203(a) of such Act as amended by this Act (or would, but for the penultimate sentence of such section 203(a), be so reduced),

42 USC 402,
423.

Ante, pp. 1334,
1340; *Post*,
p. 1370.

then the amount of the benefit to which each person referred to in paragraph (1) of this subsection is entitled beginning with the first month after December 1972 for which any person referred to in paragraph (2) becomes entitled shall be adjusted, after the application of such section 203(a), to an amount no less than the amount it would have been if the person or persons referred to in paragraph (2) of this subsection were not entitled to a benefit referred to in such paragraph (2).

WAIVER OF DURATION-OF-RELATIONSHIP REQUIREMENT FOR WIDOW, WIDOWER, OR STEPCHILD IN CASE OF REMARRIAGE TO THE SAME INDIVIDUAL

SEC. 115. (a) The heading of section 216(k) of the Social Security Act is amended by adding at the end thereof “, or in Case of Remarriage to the Same Individual”.

81 Stat. 866;
Post, p. 1370.
42 USC 416.

(b) Section 216(k) of such Act is amended by striking out “if his death—” and all that follows and inserting in lieu thereof “if—

“(1) his death—

“(A) is accidental, or

“(B) occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in section 210(l)(2)),

42 USC 410.

and he would satisfy such requirement if a three-month period were substituted for the nine-month period, or

“(2) (A) the widow or widower of such individual had been previously married to such individual and subsequently divorced and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce; or

“(B) the stepchild of such individual had been the stepchild of such individual during a previous marriage of such stepchild's parent to such individual which ended in divorce and such requirement would have been satisfied at the time of such divorce if such previous marriage had been terminated by the death of such individual at such time instead of by divorce;

except that this subsection shall not apply if the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months. For purposes of paragraph (1)(A) of this subsection, the death of an individual is accidental if he receives bodily injuries solely through violent, external, and accidental means and, as a direct result of the bodily injuries and independently of all other causes, loses his life not later than three months after the day on which he receives such bodily injuries.”

(c) The amendments made by this section shall apply only with respect to benefits payable under title II of the Social Security Act for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted.

Effective date.
53 Stat. 1362.
42 USC 401.

REDUCTION FROM 6 TO 5 MONTHS OF WAITING PERIOD FOR DISABILITY
BENEFITS

42 USC 423.

SEC. 116. (a) Section 223(c)(2) of the Social Security Act is amended—

Ante, p. 1348.

(1) by striking out “six” and inserting in lieu thereof “five”,
and

(2) by striking out “eighteenth” each place it appears and
inserting in lieu thereof “seventeenth”.

81 Stat. 830.
42 USC 402.

(b) Section 202(e)(6) of such Act is amended—

(1) by striking out “six” and inserting in lieu thereof “five”,

(2) by striking out “eighteenth” and inserting in lieu thereof
“seventeenth”, and

(3) by striking out “sixth” and inserting in lieu thereof “fifth”.

(c) Section 202(f)(7) of such Act is amended—

(1) by striking out “six” and inserting in lieu thereof “five”,

(2) by striking out “eighteenth” and inserting in lieu thereof
“seventeenth”, and

(3) by striking out “sixth” and inserting in lieu thereof “fifth”.

79 Stat. 367.
42 USC 416.

(d) Section 216(i)(2)(A) of such Act is amended by striking out
“6” and inserting in lieu thereof “five”.

(e) The amendments made by this section shall be effective with
respect to applications for disability insurance benefits under section
223 of the Social Security Act, applications for widow's and wid-
ower's insurance benefits based on disability under section 202 of such
Act, and applications for disability determinations under section 216
(i) of such Act, filed—

(1) in or after the month in which this Act is enacted, or

(2) before the month in which this Act is enacted if—

(A) notice of the final decision of the Secretary of Health,
Education, and Welfare has not been given to the applicant
before such month, or

(B) the notice referred to in subparagraph (A) has been
so given before such month but a civil action with respect to
such final decision is commenced under section 205(g) of the
Social Security Act (whether before, in, or after such month)
and the decision in such civil action has not become final
before such month;

42 USC 405.

except that no monthly benefits under title II of the Social Security
Act shall be payable or increased by reason of the amendments made
by this section for any month before January 1973.

53 Stat. 1362.
42 USC 401.

ELIMINATION OF DISABILITY INSURED-STATUS REQUIREMENT OF SUBSTAN-
TIAL RECENT COVERED WORK IN CASE OF INDIVIDUALS WHO ARE BLIND

42 USC 416.

SEC. 117. (a) The first sentence of section 216(i)(3) of the Social
Security Act is amended by striking out all that follows subparagraph
(B) and inserting in lieu thereof the following:

“except that the provisions of subparagraph (B) of this paragraph
shall not apply in the case of an individual who is blind (within the
meaning of ‘blindness’ as defined in paragraph (1)).”

(b) Section 223(c)(1) of such Act is amended by striking out
“coverage.” in subparagraph (B)(ii) and inserting in lieu thereof
“coverage;”, and by striking out “For purposes” and inserting in lieu
thereof the following:

“except that the provisions of subparagraph (B) of this para-
graph shall not apply in the case of an individual who is blind
(within the meaning of ‘blindness’ as defined in section 216(i)
(1)). For purposes”.

(c) The amendments made by this section shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act, and for disability determinations under section 216(i) of such Act, filed—

Effective dates.

- (1) in or after the month in which this Act is enacted, or
- (2) before the month in which this Act is enacted if—

42 USC 423.
Ante, pp. 1341,
1350; *Infra*.

(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month; or

(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

42 USC 405.

except that no monthly benefits under title II of the Social Security Act shall be payable or increased by reason of the amendments made by this section for months before January 1973.

53 Stat. 1362.
42 USC 401.

APPLICATIONS FOR DISABILITY INSURANCE BENEFITS FILED AFTER DEATH OF INSURED INDIVIDUAL

SEC. 118. (a) (1) Section 223(a) (1) of the Social Security Act is amended by adding at the end thereof the following new sentence: "In the case of a deceased individual, the requirement of subparagraph (C) may be satisfied by an application for benefits filed with respect to such individual within 3 months after the month in which he died."

42 USC 423.

(2) Section 223(a) (2) of such Act is amended by striking out "he filed his application for disability insurance benefits and was" and inserting in lieu thereof "the application for disability insurance benefits was filed and he was".

Ante, p. 1340.

(3) The third sentence of section 223(b) of such Act is amended by striking out "if he files such application" and inserting in lieu thereof "if such application is filed".

(4) Section 223(c) (2) (A) of such Act is amended by striking out "who files such application" and inserting in lieu thereof "with respect to whom such application is filed".

Ante, p. 1350.

(b) Section 216(i) (2) (B) of such Act is amended by adding at the end thereof the following new sentence: "In the case of a deceased individual, the requirement of an application under the preceding sentence may be satisfied by an application for a disability determination filed with respect to such individual within 3 months after the month in which he died."

42 USC 416.

(c) The amendments made by this section shall apply in the case of deaths occurring after December 31, 1969. For purposes of such amendments (and for purposes of sections 202(j) (1) and 223(b) of the Social Security Act), any application with respect to an individual whose death occurred after December 31, 1969, but before the date of the enactment of this Act which is filed in, or within 3 months after the month in which this Act is enacted shall be deemed to have been filed in the month in which such death occurred.

Effective dates.

42 USC 402,
423.

WORKMEN'S COMPENSATION OFFSET FOR DISABILITY INSURANCE
BENEFICIARIES

SEC. 119. (a) The next to last sentence of section 224(a) of the Social Security Act is amended—

42 USC 424a.

(1) by striking out "larger" and inserting in lieu thereof "largest",

(2) by striking out "or" before "(B)", and

(3) by inserting before the period at the end thereof the following: "or (C) one-twelfth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 209(a) and 211(b)(1)) for the calendar year in which he had the highest such wages and income during the period consisting of the calendar year in which he became disabled (as defined in section 223(d)) and the five years preceding that year".

Ante, p. 417,
418.

42 USC 423.

(b) The last sentence of section 224(a) of such Act is amended by striking out "clause (B)" and inserting in lieu thereof "clauses (B) and (C)".

Effective date.

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1972.

53 Stat. 1362.
42 USC 401.

WAGE CREDITS FOR MEMBERS OF THE UNIFORMED SERVICES

81 Stat. 833.
42 USC 429.

SEC. 120. (a) Subsection 229(a) of the Social Security Act is amended—

(1) by striking out "after December 1967" and inserting in lieu thereof "after December 1972";

(2) by striking out "after 1967" and inserting in lieu thereof "after 1956"; and

(3) by striking out all that follows "(in addition to the wages actually paid to him for such service)" and inserting in lieu thereof "of \$300."

Effective date.

(b) The amendments made by subsection (a) shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1972 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1972 except that, in the case of any individual who is entitled, on the basis of the wages and self-employment income of any individual to whom section 229 of such Act applies, to monthly benefits under title II of such Act for the month in which this Act is enacted, such amendments shall apply (1) only if a written request for a recalculation of such benefits (by reason of such amendments) under the provisions of section 215 (b) and (d) of such Act, as in effect at the time such request is filed, is filed by such individual, or any other individual, entitled to benefits under such title II on the basis of such wages and self-employment income, and (2) only with respect to such benefits for months beginning with whichever of the following is later: January 1973 or the twelfth month before the month in which such request was filed. Recalculations of benefits as required to carry out the provisions of this section shall be made notwithstanding the provisions of section 215(f)(1) of the Social Security Act, and no such recalculation shall be regarded as a recomputation for purposes of section 215(f) of such Act.

42 USC 429.

42 USC 401.

42 USC 415.

OPTIONAL DETERMINATION OF SELF-EMPLOYMENT EARNINGS

SEC. 121. (a)(1) Section 211(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (g), or by a partnership of which an individual is a member on a regular basis as defined in subsection (g), but only if such individual's net earnings from self-employment in the taxable year as determined without regard to this sentence are less than \$1,600 and less than 66 $\frac{2}{3}$ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed \$1,600."

(2) Section 211 of such Act is amended by adding at the end thereof the following new subsection:

"Regular Basis

"(g) An individual shall be deemed to be self-employed on a regular basis in a taxable year, or to be a member of a partnership on a regular basis in such year, if he had net earnings from self-employment, as defined in the first sentence of subsection (a), of not less than \$400 in at least two of the three consecutive taxable years immediately preceding such taxable year from trades or businesses carried on by such individual or such partnership."

(b)(1) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended by adding at the end thereof the following new paragraph:

"The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (i), or by a partnership of which an individual is a member on a regular basis as defined in subsection (i), but only if such individual's net earnings from self-employment as determined without regard to this sentence in the taxable year are less than \$1,600 and less than 66 $\frac{2}{3}$ percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed \$1,600."

Post, pp. 1357,
1366.
42 USC 411.

Infra.

64 Stat. 502;
72 Stat. 1036.

Post, pp. 1357,
1366.
26 USC 1402.

68A Stat. 353;
79 Stat. 391.
26 USC 1402.
26 USC 1401-
1403.

(2) Section 1402 of such Code (definitions relating to Self-Employment Contributions Act of 1954) is amended by adding at the end thereof the following new subsection:

"Regular Basis

"(i) An individual shall be deemed to be self-employed on a regular basis in a taxable year, or to be a member of a partnership on a regular basis in such year, if he had net earnings from self-employment, as defined in the first sentence of subsection (a), of not less than \$400 in at least two of the three consecutive taxable years immediately preceding such taxable year from trades or businesses carried on by such individual or such partnership."

Effective date.

(c) The amendments made by this section shall apply only with respect to taxable years beginning after December 31, 1972.

PAYMENTS BY EMPLOYER TO SURVIVOR OR ESTATE OF FORMER EMPLOYEE

64 Stat. 492;
81 Stat. 935.
42 USC 409.

SEC. 122. (a) Section 209 of the Social Security Act is amended by striking out "or" at the end of subsection (l), by striking out the period at the end of subsection (m) and inserting in lieu thereof "; or", and by inserting after subsection (m) the following new subsection:

"(n) Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died."

68A Stat. 417;
81 Stat. 934.
26 USC 3121.

(b) Section 3121(a) of the Internal Revenue Code of 1954 (relating to definition of wages) is amended by striking out "or" at the end of paragraph (12), by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and by inserting after paragraph (13) the following new paragraph:

"(14) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died."

Effective date.

(c) The amendments made by this section shall apply in the case of any payment made after December 1972.

COVERAGE FOR VOW-OF-POVERTY MEMBERS OF RELIGIOUS ORDERS

64 Stat. 494;
68 Stat. 1052.
42 USC 410.

SEC. 123. (a) (1) Section 210(a) (8) (A) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: ", except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs".

Infra.

(2) Section 3121(b) (8) (A) of the Internal Revenue Code of 1954 (relating to definition of employment) is amended by inserting before the semicolon at the end thereof the following: ", except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under subsection (r) is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs".

Supra.

26 USC 3101.

(b) Section 3121 of such Code (definitions relating to Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(r) **ELECTION OF COVERAGE BY RELIGIOUS ORDERS.**—

"(1) **CERTIFICATE OF ELECTION BY ORDER.**—A religious order whose members are required to take a vow of poverty, or any

autonomous subdivision of such order, may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) electing to have the insurance system established by title II of the Social Security Act extended to services performed by its members in the exercise of duties required by such order or such subdivision thereof. Such certificate of election shall provide that—

42 USC 401.

“(A) such election of coverage by such order or subdivision shall be irrevocable;

“(B) such election shall apply to all current and future members of such order, or in the case of a subdivision thereof to all current and future members of such order who belong to such subdivision;

“(C) all services performed by a member of such an order or subdivision in the exercise of duties required by such order or subdivision shall be deemed to have been performed by such member as an employee of such order or subdivision; and

“(D) the wages of each member, upon which such order or subdivision shall pay the taxes imposed by sections 3101 and 3111, will be determined as provided in subsection (i) (4).

Post, pp. 1362-1364.

“(2) DEFINITION OF MEMBER.—For purposes of this subsection, a member of a religious order means any individual who is subject to a vow of poverty as a member of such order and who performs tasks usually required (and to the extent usually required) of an active member of such order and who is not considered retired because of old age or total disability.

“(3) EFFECTIVE DATE FOR ELECTION.—(A) A certificate of election of coverage shall be in effect, for purposes of subsection (b) (8) (A) and for purposes of section 210(a) (8) (A) of the Social Security Act, for the period beginning with whichever of the following may be designated by the order or subdivision thereof:

Ante, p. 1354.

“(i) the first day of the calendar quarter in which the certificate is filed,

“(ii) the first day of the calendar quarter succeeding such quarter, or

“(iii) the first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

Whenever a date is designated under clause (iii), the election shall apply to services performed before the quarter in which the certificate is filed only if the member performing such services was a member at the time such services were performed and is living on the first day of the quarter in which such certificate is filed.

“(B) If a certificate of election filed pursuant to this subsection is effective for one or more calendar quarters prior to the quarter in which such certificate is filed, then—

“(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

26 USC 6651.

"(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

"(4) COORDINATION WITH COVERAGE OF LAY EMPLOYEES.—Notwithstanding the preceding provisions of this subsection, no certificate of election shall become effective with respect to an order or subdivision thereof, unless—

"(A) if at the time the certificate of election is filed a certificate of waiver of exemption under subsection (k) is in effect with respect to such order or subdivision, such order or subdivision amends such certificate of waiver of exemption (in such form and manner as may be prescribed by regulations made under this chapter) to provide that it may not be revoked, or

"(B) if at the time the certificate of election is filed a certificate of waiver of exemption under such subsection is not in effect with respect to such order or subdivision, such order or subdivision files such certificate of waiver of exemption under the provisions of such subsection except that such certificate of waiver of exemption cannot become effective at a later date than the certificate of election and such certificate of waiver of exemption must specify that such certificate of waiver of exemption may not be revoked. The certificate of waiver of exemption required under this subparagraph shall be filed notwithstanding the provisions of subsection (k) (3)."

(c) (1) Section 209 of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"For purposes of this title, in any case where an individual is a member of a religious order (as defined in section 3121(r) (2) of the Internal Revenue Code of 1954) performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of such Code is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term 'wages' shall, subject to the provisions of subsection (a) of this section, include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than \$100 a month."

(2) Section 3121(i) of the Internal Revenue Code of 1954 (relating to computation of wages in certain cases) is amended by adding at the end thereof the following new paragraph:

"(4) SERVICE PERFORMED BY CERTAIN MEMBERS OF RELIGIOUS ORDERS.—For purposes of this chapter, in any case where an individual is a member of a religious order (as defined in subsection (r) (2)) performing service in the exercise of duties required by such order, and an election of coverage under subsection (r) is in effect with respect to such order or with respect to the autonomous subdivision thereof to which such member belongs, the term 'wages' shall, subject to the provisions of subsection (a) (1), include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such

Ante, p. 1354;
Post, p. 1365.

"Wages."

Ante, p. 1354.

70 Stat. 878;
75 Stat. 626.
26 USC 3121.

"Wages."

order or subdivision thereof or by any other person or organization pursuant to an agreement with such order or subdivision, except that the amount included as such individual's remuneration under this paragraph shall not be less than \$100 a month."

SELF-EMPLOYMENT INCOME OF CERTAIN INDIVIDUALS TEMPORARILY
LIVING OUTSIDE THE UNITED STATES

SEC. 124. (a) Section 211(a) of the Social Security Act is amended—

Ante, p. 1353.

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) In the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) of the Internal Revenue Code of 1954 shall not apply."

26 USC 911.

(b) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended—

Ante, p. 1353;
Post, p. 1366.

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) in the case of an individual who has been a resident of the United States during the entire taxable year, the exclusion from gross income provided by section 911(a)(2) shall not apply."

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1972.

Effective date.

COVERAGE OF FEDERAL HOME LOAN BANK EMPLOYEES

SEC. 125. (a) The provisions of section 210(a)(6)(B)(ii) of the Social Security Act and section 3121(b)(6)(B)(ii) of the Internal Revenue Code of 1954, insofar as they relate to service performed in the employ of a Federal home loan bank, shall be effective—

42 USC 410.
26 USC 3121.

(1) with respect to all service performed in the employ of a Federal home loan bank on and after the first day of the first calendar quarter which begins on or after the date of the enactment of this Act; and

(2) in the case of individuals who are in the employ of a Federal home loan bank on such first day, with respect to any service performed in the employ of a Federal home loan bank after the last day of the sixth calendar year preceding the year in which this Act is enacted; but this paragraph shall be effective only if an amount equal to the taxes imposed by sections 3101 and 3111 of such Code with respect to the services of all such individuals performed in the employ of Federal home loan banks after the last day of the sixth calendar year preceding the year in which this Act is enacted are paid under the provisions of section 3122 of such Code by July 1, 1973, or by such later date as may be provided in an agreement entered into before such date with the Secretary of the Treasury or his delegate for purposes of this paragraph.

Post, pp. 1362-1364.

Ante, p. 419.

(b) Subparagraphs (A)(i) and (B) of section 104(i)(2) of the Social Security Amendments of 1956 are repealed.

Repeal.
42 USC 410
note.

POLICEMEN AND FIREMEN IN IDAHO

42 USC 418.

SEC. 126. Section 218(p)(1) of the Social Security Act is amended by inserting "Idaho," after "Hawaii,".

COVERAGE OF CERTAIN HOSPITAL EMPLOYEES IN NEW MEXICO

SEC. 127. Notwithstanding any provisions of section 218 of the Social Security Act, the Agreement with the State of New Mexico heretofore entered into pursuant to such section may at the option of such State be modified at any time prior to the first day of the fourth month after the month in which this Act is enacted, so as to apply to the services of employees of a hospital which is an integral part of a political subdivision to which an agreement under this section has not been made applicable, as a separate coverage group within the meaning of section 218(b)(5) of such Act, but only if such hospital has prior to 1966 withdrawn from a retirement system which had been applicable to the employees of such hospital.

COVERAGE OF CERTAIN EMPLOYEES OF THE GOVERNMENT OF GUAM

42 USC 410.

SEC. 128. (a) Section 210(a)(7) of the Social Security Act is amended by striking out "or" at the end of subparagraph (C), by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof "or", and by adding at the end thereof the following new subparagraph:

"(E) service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that (i) the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and (ii) for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (C) shall apply;"

(b) Section 3121(b)(7) of the Internal Revenue Code of 1954 is amended by striking out "or" at the end of subparagraph (B), by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof "or", and by adding at the end thereof the following new subparagraph:

"(D) service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that (i) the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and (ii) for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (B) shall apply;"

(c) The amendments made by this section shall apply with respect to service performed on and after the first day of the first calendar quarter which begins on or after the date of the enactment of this Act.

74 Stat. 938;

79 Stat. 388.

26 USC 3121.

Effective date.

COVERAGE EXCLUSION OF STUDENTS EMPLOYED BY NONPROFIT ORGANIZATIONS AUXILIARY TO SCHOOLS, COLLEGES, AND UNIVERSITIES

SEC. 129. (a) (1) Section 210(a) (10) (B) of the Social Security Act is amended to read as follows:

42 USC 410.

“(B) Service performed in the employ of—

“(i) a school, college, or university, or

“(ii) an organization described in section 509(a) (3) of the Internal Revenue Code of 1954 if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services in its employ performed by a student referred to in section 218(c) (5) are covered under the agreement between the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 218;

26 USC 509.

42 USC 418.

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;”.

(2) Section 3121(b) (10) (B) of the Internal Revenue Code of 1954 is amended to read as follows:

“(B) service performed in the employ of—

“(i) a school, college, or university, or

“(ii) an organization described in section 509(a) (3) if the organization is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services performed in its employ by a student referred to in section 218(c) (5) of the Social Security Act are covered under the agreement between the Secretary of Health, Education, and Welfare and such State entered into pursuant to section 218 of such Act;

68A Stat. 417;

68 Stat. 1091.

26 USC 3121.

if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;”.

(b) The amendments made by subsection (a) shall apply to services performed after December 31, 1972.

Effective date.

PENALTY FOR FURNISHING FALSE INFORMATION TO OBTAIN SOCIAL SECURITY ACCOUNT NUMBER FOR DECEPTIVE PRACTICES INVOLVING SOCIAL SECURITY ACCOUNT NUMBERS

SEC. 130. (a) Section 208 of the Social Security Act is amended by adding “or” after the semicolon at the end of subsection (e), and by inserting after subsection (e) the following new subsections:

72 Stat. 1034.

42 USC 408.

“(f) willfully, knowingly, and with intent to deceive the Secretary as to his true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Secretary with respect to any information required by the Secretary in connection with the establishment and maintenance of the records provided for in section 205 (c) (2); or

Post, p. 1364.

"(g) for the purpose of causing an increase in any payment authorized under this title (or any other program financed in whole or in part from Federal funds), or for the purpose of causing a payment under this title (or any such other program) to be made when no payment is authorized thereunder, or for the purpose of obtaining (for himself or any other person) any payment or any other benefit to which he (or such other person) is not entitled—

Post, 1364.

"(1) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Secretary (in the exercise of his authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Secretary by him or by any other person; or

"(2) with intent to deceive, falsely represents a number to be the social security account number assigned by the Secretary to him or to another person, when in fact such number is not the social security account number assigned by the Secretary to him or to such other person;"

Effective date.

(b) The amendments made by subsection (a) shall apply with respect to information furnished to the Secretary after the date of the enactment of this Act.

INCREASE OF AMOUNTS IN TRUST FUNDS AVAILABLE TO PAY COSTS OF REHABILITATION SERVICES

79 Stat. 408;
Ante, p. 1343.

SEC. 131. The first sentence of section 222(d)(1) of the Social Security Act (as amended by section 107(b)(4) of this Act) is further amended by striking out "except that the total amount so made available pursuant to this subsection in any fiscal year may not exceed 1 percent of the total of the benefits under section 202(d) for children who have attained age 18 and are under a disability" and inserting in lieu thereof the following: "except that the total amount so made available pursuant to this subsection may not exceed—

"(i) 1 percent in the fiscal year ending June 30, 1972,

"(ii) 1.25 percent in the fiscal year ending June 30, 1973,

"(iii) 1.5 percent in the fiscal year ending June 30, 1974, and thereafter,

Ante, pp. 1343-1347.

of the total of the benefits under section 202(d) for children who have attained age 18 and are under a disability".

ACCEPTANCE OF MONEY GIFTS MADE UNCONDITIONALLY TO SOCIAL SECURITY

42 USC 401.

SEC. 132. (a) The second sentence of section 201(a) of the Social Security Act is amended by inserting after "in addition," the following: "such gifts and bequests as may be made as provided in subsection (i)(1), and".

Infra.

Post, p. 1364.

(b) The second sentence of section 201(b) of such Act is amended by inserting after "consist of" the following: "such gifts and bequests as may be made as provided in subsection (i)(1), and".

(c) Section 201 of such Act is further amended by adding after subsection (h) the following new subsection:

"(i)(1) The Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal

Supplementary Medical Insurance Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to any one or more of such Trust Funds or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.

“(2) Any such gift accepted pursuant to the authority granted in paragraph (1) of this subsection shall be deposited in—

“(A) the specific trust fund designated by the donor or

“(B) if the donor has not so designated, the Federal Old-Age and Survivors Insurance Trust Fund.”

(d) The second sentence of section 1817(a) of such Act is amended by inserting after “consist of” and before “such amounts” the following: “such gifts and bequests as may be made as provided in section 201(i)(1), and”.

(e) The second sentence of section 1841(a) of such Act is amended by inserting after “consist of” and before “such amounts” the following: “such gifts and bequests as may be made as provided in section 201(i)(1), and”.

(f) The amendments made by this section shall apply with respect to gifts and bequests received after the date of enactment of this Act.

(g) For the purpose of Federal income, estate, and gift taxes, any gift or bequest to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund, or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through any of such Funds, which is accepted by the Managing Trustee of such Trust Funds under the authority of section 201(i) of the Social Security Act, shall be considered as a gift or bequest to or for the use of the United States and as made for exclusively public purposes.

79 Stat. 299.
42 USC 1395f.

Ante, p. 1360.
42 USC 1395t.

Effective date.

PAYMENT IN CERTAIN CASES OF DISABILITY INSURANCE BENEFITS WITH RESPECT TO CERTAIN PERIODS OF DISABILITY

SEC. 133. (a) If an individual would (upon the timely filing of an application for a disability determination under section 216(i) of the Social Security Act and of an application for disability insurance benefits under section 223 of such Act) have been entitled to disability insurance benefits under such section 223 for a period which began after 1959 and ended prior to 1964, such individual shall, upon filing application for disability insurance benefits under such section 223 with respect to such period not later than 6 months after the date of enactment of this section, be entitled, notwithstanding any other provision of title II of the Social Security Act, to receive in a lump sum, as disability insurance benefits payable under section 223, an amount equal to the total amounts of disability insurance benefits which would have been payable to him for such period if he had timely filed such an application for a disability determination and such an application for disability insurance benefits with respect to such period; but only if—

(1) prior to the date of enactment of this section and after the date of enactment of the Social Security Amendments of 1967,

Ante, pp. 1341,
1350, 1351.

42 USC 401.

42 USC 302
note.

Ante, pp. 1341,
1350, 1351.

such period was determined (under section 216(i) of the Social Security Act) to be a period of disability as to such individual; and

(2) the application giving rise to the determination (under such section 216(i)) that such period is a period of disability as to such individual would not have been accepted as an application for such a determination except for the provisions of section 216(i) (2) (F).

(b) No payment shall be made to any individual by reason of the provisions of subsection (a) except upon the basis of an application filed after the date of enactment of this section.

RECOMPUTATION OF BENEFITS BASED ON COMBINED RAILROAD AND SOCIAL SECURITY EARNINGS

42 USC 415.

SEC. 134. (a) Section 215(f) of the Social Security Act is amended—

(1) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following:

“(B) in the case of an individual who died in such year, for monthly benefits beginning with benefits for the month in which he died.”; and

(2) by adding at the end the following new paragraph:

“(6) Upon the death after 1967 of an individual entitled to benefits under section 202(a) or section 223, if any person is entitled to monthly benefits or a lump-sum death payment, on the wages and self-employment income of such individual, the Secretary shall recompute the decedent's primary insurance amount, but only if the decedent during his lifetime was paid compensation which was treated under section 205(o) as remuneration for employment.”

(b) Section 215(d) (2) of such Act is amended by inserting “or (6)” before the period at the end thereof.

Ante, p. 1340.
Ante, pp. 1350,
1351.

42 USC 405.
81 Stat. 864;
Post, p. 1369.
42 USC 415.

CHANGES IN TAX SCHEDULES

SEC. 135. (a) (1) Section 1401(a) of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income for purposes of old-age, survivors, and disability insurance) is amended—

(A) by striking out “1978” in paragraph (3) and inserting in lieu thereof “1973”; and

(B) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

“(4) in the case of any taxable year beginning after December 31, 1972, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year.”

(2) Section 3101(a) of such Code (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended (A) by striking out “any of the calendar years 1971 through 1977” and inserting in lieu thereof “the calendar years 1971 and 1972” and (B) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

79 Stat. 394;
81 Stat. 835.
26 USC 1401.

26 USC 3101.

"(4) with respect to wages received during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 4.85 percent;

"(5) with respect to wages received during the calendar years 1978 through 2010, the rate shall be 4.80 percent; and

"(6) with respect to wages received after December 31, 2010, the rate shall be 5.85 percent."

(3) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended (A) by striking out "any of the calendar years 1971 through 1977" and inserting in lieu thereof "the calendar years 1971 and 1972" and (B) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

Ante, p. 421.

"(4) with respect to wages paid during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 4.85 percent;

"(5) with respect to wages paid during the calendar years 1978 through 2010, the rate shall be 4.80 percent; and

"(6) with respect to wages paid after December 31, 2010, the rate shall be 5.85 percent."

(b)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

Ante, p. 421.

"(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1978, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.25 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year."

(2) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

Ante, p. 421.

"(2) with respect to wages received during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 1.0 percent;

"(3) with respect to wages received during the calendar years 1978, 1979, and 1980, the rate shall be 1.25 percent;

"(4) with respect to wages received during the calendar years 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent; and

"(5) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent."

Ante, p. 422.

(3) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

“(2) with respect to wages paid during the calendar years 1973, 1974, 1975, 1976, and 1977, the rate shall be 1.0 percent;

“(3) with respect to wages paid during the calendar years 1978, 1979, and 1980, the rate shall be 1.25 percent;

“(4) with respect to wages paid during the calendar years 1981, 1982, 1983, 1984, and 1985, the rate shall be 1.35 percent; and

“(5) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent.”

Effective date.

(c) The amendments made by subsections (a) (1) and (b) (1) shall apply only with respect to taxable years beginning after December 31, 1972. The remaining amendments made by this section shall apply only with respect to remuneration paid after December 31, 1972.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

Ante, p. 422.

SEC. 136. (a) Section 201(b)(1) of the Social Security Act is amended—

(1) by striking out “(E) 1.0” and inserting in lieu thereof “(E) 1.1”;

(2) by striking out “(F) 1.1” and inserting in lieu thereof “(F) 1.15”; and

(3) by striking out “(G) 1.4” and inserting in lieu thereof “(G) 1.5”.

(b) Section 201(b)(2) of such Act is amended—

(1) by striking out “(E) 0.75” and inserting in lieu thereof “(E) 0.795”;

(2) by striking out “(F) 0.825” and inserting in lieu thereof “(F) 0.84”; and

(3) by striking out “(G) 0.915” and inserting in lieu thereof “(G) 0.895”.

METHOD OF ISSUANCE OF SOCIAL SECURITY ACCOUNT NUMBERS

64 Stat. 518.
42 USC 405.

SEC. 137. Section 205(c)(2) of the Social Security Act is amended—

(1) by inserting “(A)” immediately after “(2)”; and

(2) by adding at the end thereof the following new subparagraph:

“(B)(i) In carrying out his duties under subparagraph (A), the Secretary shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned):

“(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment;

“(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from

Federal funds including any child on whose behalf such benefits are claimed by another person; and

“(III) to any other individual when it appears that he could have been but was not assigned an account number under the provisions of subclauses (I) or (II) but only after such investigation as is necessary to establish to the satisfaction of the Secretary, the identity of such individual, the fact that an account number has not already been assigned to such individual, and the fact that such individual is a citizen or a noncitizen who is not, because of his alien status, prohibited from engaging in employment;

and, in carrying out such duties, the Secretary is authorized to take affirmative measures to assure the issuance of social security numbers:

“(IV) to or on behalf of children who are below school age at the request of their parents or guardians; and

“(V) to children of school age at the time of their first enrollment in school.

“(ii) The Secretary shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual.

“(iii) In carrying out the requirements of this subparagraph, the Secretary shall enter into such agreements as may be necessary with the Attorney General and other officials and with State and local welfare agencies and school authorities (including non-public school authorities).”

PAYMENTS BY EMPLOYER TO DISABLED FORMER EMPLOYEE

SEC. 138. (a) Section 209 of the Social Security Act (as amended by section 122(a) of this Act) is further amended by striking out “or” at the end of subsection (m), by striking out the period at the end of subsection (n) and inserting in lieu thereof “; or”, and by inserting after subsection (n) the following new subsection:

Ante, p. 1354.

“(o) Any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made.”

Ante, p. 1351.

(b) Section 3121(a) of the Internal Revenue Code of 1954 (relating to definition of wages, and as amended by section 122(b) of this Act) is further amended by striking out “or” at the end of paragraph (13), by striking out the period at the end of paragraph (14) and inserting in lieu thereof “; or”, and by inserting after paragraph (14) the following new paragraph:

Ante, p. 1354.

“(15) any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) of the Social Security Act and such entitlement commenced prior to the cal-

endar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made.”

Effective date. (c) The amendments made by this section shall apply in the case of any payment made after December 1972.

TERMINATION OF COVERAGE OF REGISTRARS OF VOTERS
IN LOUISIANA

64 Stat. 514.
42 USC 418.

SEC. 139. (a) Notwithstanding the provisions of section 218(g)(1) of the Social Security Act, the Secretary may, under such conditions as he deems appropriate, permit the State of Louisiana to modify its agreement entered into under section 218 of such Act so as to terminate the coverage of all employees who are in positions under the Registrars of Voters Employees' Retirement System, effective after December 1975, but only if such State files with him notice of termination on or before December 31, 1973.

(b) If the coverage of such employees in positions under such retirement system is terminated pursuant to subsection (a), coverage cannot later be extended to employees in positions under such retirement system.

COMPUTATION OF INCOME OF AMERICAN MINISTERS AND MEMBERS OF
RELIGIOUS ORDERS PERFORMING SERVICES OUTSIDE THE UNITED STATES

71 Stat. 523.
42 USC 411.

SEC. 140. (a) Section 211(a)(7) of the Social Security Act is amended—

(1) by striking out “and section 119” and inserting in lieu thereof “, section 119”;

42 USC 410.

(2) by striking out “of the Internal Revenue Code of 1954 and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 210(e)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to” and inserting in lieu thereof a comma; and

71 Stat. 523.
26 USC 1402.

(3) by striking out “such Code” and inserting in lieu thereof “the Internal Revenue Code of 1954”.

(b) Section 1402(a)(8) of the Internal Revenue Code is amended—

(1) by striking out “and section 119” and inserting in lieu thereof “, section 119”; and

(2) by striking out “and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121(h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to” and inserting in lieu thereof a comma.

Effective date.

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1972.

MODIFICATION OF STATE AGREEMENTS WITH RESPECT TO CERTAIN STUDENTS
AND CERTAIN PART-TIME EMPLOYEES

42 USC 418.

SEC. 141. (a) Notwithstanding any provision of section 218 of the Social Security Act, the agreement with any State (or any modifications thereof) entered into pursuant to such section may, at the option of such State, be modified at any time prior to January 1, 1974, so as to exclude either or both of the following:

(1) service in any class or classes of part-time positions; or
 (2) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

(b) Any modification of such agreement pursuant to this section shall be effective with respect to services performed after the end of the calendar quarter following the calendar quarter in which such agreement is modified.

Effective date.

(c) If any such modification terminates coverage with respect to service in any class or classes of part-time positions in any coverage group, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to service in such positions in such coverage group; if such modification terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Secretary of Health, Education, and Welfare and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university.

BENEFITS IN CASE OF CERTAIN INDIVIDUALS INTERNED DURING WORLD WAR II

SEC. 142. (a) Title II of the Social Security Act (as amended by this Act) is amended by adding at the end thereof a new section as follows:

42 USC 401.

"BENEFITS IN CASE OF CERTAIN INDIVIDUALS INTERNED DURING WORLD WAR II

"SEC. 231. (a) For the purposes of this section the term 'internee' means an individual who was interned during any period of time from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry.

"Internee."

"(b) (1) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in the case of a death after such month, payable under this title on the basis of the wages and self-employment income of any individual, and for purposes of section 216(i) (3), such individual shall be deemed to have been paid during any period after he attained age 18 and for which he was an internee, wages (in addition to any wages actually paid to him) at a weekly rate of basic pay during such period as follows—

Ante, p. 1350.

"(A) in the case such individual was not employed prior to the beginning of such period, 40 multiplied by the minimum hourly rate or rates in effect at any such time under section 206(a) (1) of title 29, United States Code, for each full week during such period; and

80 Stat. 838.

"(B) in the case such individual who was employed prior to the beginning of such period, 40 multiplied by the greater of (i) the highest hourly rate received during any such employment, or (ii) the minimum hourly rate or rates in effect at any such time under section 206(a) (1) of title 29, United States Code, for each full week during such period.

"(2) This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—

“(A) a larger such benefit or payment, as the case may be, would be payable without its application; or

“(B) a benefit (other than a benefit payable in a lump-sum unless it is a commutation of, or a substitute for, periodic payments) which is based, in whole or in part, upon internment during any period from December 7, 1941, through December 31, 1946, at a place within the United States operated by the Government of the United States for the internment of United States citizens of Japanese ancestry, is determined by any agency or wholly owned instrumentality of the United States to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

Nonapplicabil-
ity.

The provisions of clause (B) shall not apply in the case of any monthly benefit or lump-sum death payment under this title if its application would reduce by \$0.50 or less the primary insurance amount (as computed under section 215 prior to any recomputation thereof pursuant to subsection (f) of such section) of the individual on whose wages and self-employment income such benefit or payment is based. The provisions of clause (B) shall also not apply for purposes of section 216(i) (3).

Ante, pp. 1333,
1334, 1362.

Ante, p. 1350.

“(3) Upon application for benefits, a recalculation of benefits (by reason of this section), or a lump-sum death payment on the basis of the wages and self-employment income of any individual who was an internee, the Secretary of Health, Education, and Welfare shall accept the certification of the Secretary of Defense or his designee concerning any period of time for which an internee is to receive credit under paragraph (1) and shall make a decision without regard to clause (B) of paragraph (2) of this subsection unless he has been notified by some other agency or instrumentality of the United States that, on the basis of the period for which such individual was an internee, a benefit described in clause (B) of paragraph (2) has been determined by such agency or instrumentality to be payable by it. If the Secretary of Health, Education, and Welfare has not been so notified, he shall then ascertain whether some other agency or wholly owned instrumentality of the United States has decided that a benefit described in clause (B) of paragraph (2) is payable by it. If any such agency or instrumentality has decided, or thereafter decides, that such a benefit is payable by it, it shall so notify the Secretary of Health, Education, and Welfare, and the Secretary shall certify no further benefits for payment or shall recompute the amount of any further benefits payable, as may be required by this section.

“(4) Any agency or wholly owned instrumentality of the United States which is authorized by any law of the United States to pay benefits, or has a system of benefits which are based, in whole or in part, on any period for which any individual was an internee shall, at the request of the Secretary of Health, Education, and Welfare, certify to him, with respect to any individual who was an internee, such information as the Secretary deems necessary to carry out his functions under paragraph (3) of this subsection.

Appropriation.

“(c) There are authorized to be appropriated to the Trust Funds and the Federal Hospital Insurance Trust Fund for the fiscal year ending June 30, 1978, such sums as the Secretary determines would place the Trust Funds and the Federal Hospital Insurance Trust Fund in the position in which they would have been if the preceding provisions of this section had not been enacted.”

42 USC 415.

(b) Section 215(d) (1) (C) of such Act is amended by striking out “and” at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof “, and”, and by inserting after clause (iii) the following new clause:

“(iv) wages deemed paid prior to 1951 to such individual under section 231.”

(c) Section 215(d)(2) of such Act (as amended by section 134 of this Act) is further amended by striking out the period at the end thereof and inserting in lieu thereof “or section 231.”

Ante, p. 1362.
42 USC 415.

MODIFICATION OF AGREEMENT WITH WEST VIRGINIA TO PROVIDE COVERAGE
FOR CERTAIN POLICEMEN AND FIREMEN

SEC. 143. (a) Notwithstanding the provisions of subsection (d)(5) (A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 may, at any time prior to 1974, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

42 USC 418.

(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

(1) all services performed by such individual, in any policeman's or fireman's position to which the modification relates, on or after the date of the enactment of this Act; and

(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

PERFECTING AMENDMENTS RELATED TO THE 20-PERCENT INCREASE
PROVISION ENACTED IN PUBLIC LAW 92-336

SEC. 144. (a)(1) The table in section 215(a) of the Social Security Act (as inserted by section 201(a) of Public Law 92-336) is amended—

Ante, p. 406.

(A) in column II of such table, by striking out “251.40” and inserting in lieu thereof “254.40”, and

(B) in column III of such table, by striking out “699” and inserting in lieu thereof “696”.

Ante, p. 410.

(2) Section 203(a)(2)(B) of such Act (as amended by section 201(b) of Public Law 92-336) is amended by striking out "for each person" and inserting in lieu thereof "for each such person".

Ante, p. 415.

(3) Section 203(a)(2)(C) of such Act (as amended by section 202(a)(2)(B) of Public Law 92-336) is amended by striking out "month including" and inserting in lieu thereof "month (including)".

Ante, p. 417.

(4) Section 230(b)(2) of such Act (as added by section 202(b)(1) of Public Law 92-336) is amended by striking out "or" at the end of clause (A) and inserting in lieu thereof "of".

Ante, p. 406.

(b) The amendments made by each of the paragraphs in subsection (a) shall be effective in like manner as if such amendment had been included in title II of Public Law 92-336 in the particular provision of such title referred to in such paragraph.

Ante, p. 417.

(c) Section 203(b)(6) of Public Law 92-336 is amended, effective July 1, 1972, by striking out "Section 6413(a)(2)(A)" and inserting in lieu thereof "Section 6413(c)(2)(A)".

26 USC 6413.

ELIMINATION OF DURATION-OF-RELATIONSHIP REQUIREMENT IN CERTAIN CASES INVOLVING SURVIVOR BENEFITS (WHERE INSURED'S DEATH WAS ACCIDENTAL OR OCCURRED IN LINE OF DUTY WHILE HE WAS A SERVICEMAN)

Ante, p. 1349.

SEC. 145. (a) The first sentence of section 216(k) of the Social Security Act (as amended by section 115 of this Act) is further amended—

(1) by striking out "and he would satisfy such requirement if a three-month period were substituted for the nine-month period" and inserting in lieu thereof "unless the Secretary determines that at the time of the marriage involved the individual could not have reasonably been expected to live for nine months"; and

(2) by striking out "except that this subsection shall not apply" and inserting in lieu thereof "except that paragraph (2) of this subsection shall not apply".

42 USC 401.

(b) The amendments made by this section shall apply only with respect to benefits payable under title II of the Social Security Act for months after December 1972 on the basis of applications filed in or after the month in which this Act is enacted.

TITLE II—PROVISIONS RELATING TO MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH

COVERAGE FOR DISABILITY BENEFICIARIES UNDER MEDICARE

SEC. 201. (a)(1)(A) The heading of title XVIII of the Social Security Act is amended to read as follows:

"TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED".

(B) The heading of part A of such title is amended to read as follows:

"PART A—HOSPITAL INSURANCE BENEFITS FOR THE AGED AND DISABLED".

(C) The heading of part B of such title is amended to read as follows:

"PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE
AGED AND DISABLED".

(2) The text of section 1811 of such Act is amended to read as follows:

79 Stat. 291.
42 USC 1395c.

"SEC. 1811. The insurance program for which entitlement is established by section 226 provides basic protection against the costs of hospital and related posthospital services in accordance with this part for (1) individuals who are age 65 or over and are entitled to retirement benefits under title II of this Act or under the railroad retirement system and (2) individuals under age 65 who have been entitled for not less than 24 consecutive months to benefits under title II of this Act or under the railroad retirement system on the basis of a disability."

Infra.

42 USC 401.

(3) Section 1831 of such Act is amended—

79 Stat. 301.
42 USC 1395j.

(A) by inserting "AND THE DISABLED" after "AGED" in the heading, and

(B) by striking out "individuals 65 years of age or over" and inserting in lieu thereof "aged and disabled individuals".

(b) (1) Section 226(a) of such Act is amended to read as follows:

79 Stat. 290.
42 USC 426.

"(a) (1) Every individual who—

"(A) has attained age 65, and

"(B) is entitled to monthly insurance benefits under section 202 or is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the condition specified in subparagraph (B), beginning with the first month after June 1966 for which he meets the conditions specified in subparagraphs (A) and (B).

Ante, pp. 1335-1350.

42 USC 1395.

"(b) Every individual who—

"(1) has not attained age 65, and

"(2) (A) is entitled to, and has for 24 consecutive calendar months been entitled to, (i) disability insurance benefits under section 223 or (ii) child's insurance benefits under section 202(d) by reason of a disability (as defined in section 223(d)) or (iii) widow's insurance benefits under section 202(e) or widower's insurance benefits under section 202(f) by reason of a disability (as defined in section 223(d)), or (B) is, and has been for not less than 24 consecutive months a disabled qualified railroad retirement beneficiary, within the meaning of section 22 of the Railroad Retirement Act of 1937,

42 USC 423.
Ante, p. 1347.

shall be entitled to hospital insurance benefits under part (A) of title XVIII for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth consecutive month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the month before the month in which he attains age 65."

Post, p. 1373.

(2) Section 226(b) of such Act is amended by striking out "occurred after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later" and inserting in lieu thereof "occurred (i) after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later, or (ii) if he was entitled to hospital insurance benefits pursuant to subsection (b), at a time when he was so entitled".

42 USC 426.

(3) Section 226(b) (2) of such Act is amended by striking out "an individual shall be deemed entitled to monthly insurance benefits under section 202," and inserting in lieu thereof "an individual shall be

deemed entitled to monthly insurance benefits under section 202 or section 223."

42 USC 402,

423.

42 USC 426.

Ante, p. 1371.

(4) Section 226(c) of such Act is amended by inserting "or section 22" after "section 21" wherever it appears.

(5) Section 226 of such Act is further amended by redesignating subsection (b) as subsection (c), subsection (c) as subsection (d), and subsection (d) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) (1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2) (A) (iii) thereof—

"(A) the term 'age 60' in sections 202(e) (1) (B) (ii) and 202(e) (5), and the term 'age 62' in sections 202(f) (1) (B) (ii), and 202 (f) (6) shall be deemed to read 'age 65'; and

"(B) the phrase 'before she attained age 60' in the matter following subparagraph (F) of section 202(e) (1) shall be deemed to read 'based on a disability'.

"(2) For purposes of determining entitlement to hospital insurance benefits under subsection (a) (2) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

"(3) For purposes of determining entitlement to hospital insurance benefits under subsection (a) (2) any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor."

79 Stat. 304.

42 USC 1395o.

(c) (1) Section 1836 of such Act is amended to read as follows:

"ELIGIBLE INDIVIDUALS

"SEC. 1836. Every individual who—

"(1) is entitled to hospital insurance benefits under part A, or

"(2) has attained age 65 and is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this part,

is eligible to enroll in the insurance program established by this part."

42 USC 1395p.

(2) (A) The first sentence of section 1837(c) of such Act is amended by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1) or (2)".

(B) The second sentence of section 1837(c) of such Act is amended to read as follows: "For purposes of this subsection and subsection (d), an individual who has attained age 65 and who satisfies paragraph (1) of section 1836 but not paragraph (2) of such section shall be treated as satisfying such paragraph (1) on the first day on which he is (or on filing application would have been) entitled to hospital insurance benefits under part A."

Supra.

(C) The first sentence of 1837(d) of such Act is amended by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1) or (2)".

42 USC 1395p.

(3) (A) Section 1838(a) of such Act is amended by striking out "July 1, 1966" in paragraph (1) and inserting in lieu thereof "July 1, 1966 or (in the case of a disabled individual who has not attained age 65) July 1, 1973".

42 USC 1395q.

(B) Section 1838(a) of such Act is further amended—

(i) by striking out "paragraphs (1) and (2)" in paragraph (2) (A) and inserting in lieu thereof "paragraph (1) or (2)"; and

(ii) by striking out "such paragraphs" in subparagraphs (B), (C), and (D) and inserting in lieu thereof "such paragraph".

(C) Section 1838 of such Act is further amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) In the case of an individual satisfying paragraph (1) of section 1836 whose entitlement to hospital insurance benefits under part A is based on a disability rather than on his having attained the age of 65, his coverage period (and his enrollment under this part) shall be terminated as of the close of the last month for which he is entitled to hospital insurance benefits."

Ante, p. 1372.

(4) Section 1839(c) of such Act is amended—

42 USC 1395r.

(A) by inserting "(in the same continuous period of eligibility)" after "for each full 12 months"; and

(B) by adding at the end thereof the following new sentence: "Any increase in an individual's monthly premium under the first sentence of this subsection with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which such individual may have."

(5) Section 1839 of such Act is further amended by adding at the end thereof the following new subsection:

Post, p. 1376.

"(e) For purposes of subsection (c) (and section 1837(g)(1)), an individual's 'continuous period of eligibility' is the period beginning with the first day on which he is eligible to enroll under section 1836 and ending with his death; except that any period during all of which an individual satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which he attained age 65 shall be a separate 'continuous period of eligibility' with respect to such individual (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this section)."

"Continuous period of eligibility."

Post, p. 1378.

Ante, p. 1372.

(6) (A) Section 1840(a)(1) of such Act is amended by striking out "section 202" and inserting in lieu thereof "section 202 or 223".

42 USC 1395s.

(B) Section 1840(a)(2) of such Act is amended by striking out "section 202" and inserting in lieu thereof "section 202 or 223".

(7) Section 1875(a) of such Act is amended by striking out "aged" and inserting in lieu thereof "aged and the disabled".

42 USC 1395ll.

(d) The Railroad Retirement Act of 1937 is amended by adding after section 21 the following new section:

45 USC 228s-2.

"HOSPITAL INSURANCE BENEFITS FOR THE DISABLED"

"SEC. 22. Individuals under age 65—

"(1) who have been entitled to annuities for not less than 24 consecutive months during each of which the first proviso of section 3(e) could have applied on the basis of an application which has been filed under paragraph 4 or 5 of section 2(a), and are currently entitled to such annuities, or who are entitled to annui-

45 USC 228c.

45 USC 228b.

45 USC 228b.

42 USC 423.

ties under paragraph 2 or 3 of section 2(a) and could have been paid annuities for not less than 24 consecutive months under section 223 of the Social Security Act if their service as employees were included in the term 'employment' as defined in that Act, or

"(2) who have been entitled to annuities under section 5(a) on the basis of disability, or could have been so entitled had they not been entitled on the basis of age or had they not been entitled under section 5(b) on the basis of having the custody of children, for not less than 24 consecutive months during each of which the first proviso of section 3(e) could have been applied on the basis of disability if an application for disability benefits had been filed, or

"(3) who have been entitled to annuities for not less than 24 consecutive months under section 5(c) on the basis of a disability (within the meaning of section 5(l)(1)(ii)) or who could have been includible as disabled children for not less than 24 consecutive months in the computation of an annuity under the first proviso in section 3(e) and could currently be includible in such a computation,

45 USC 228a-2.

42 USC 401.

Ante, p. 1370.

42 USC 1395.

shall be certified by the Board in the same manner, for the same purposes, and subject to the same conditions, restrictions, and other provisions as individuals specifically described in section 21, and also subject to the same conditions, restrictions, and other provisions as are disability beneficiaries under title II of the Social Security Act in connection with their eligibility for hospital insurance benefits under part A of title XVIII of such Act and their eligibility to enroll under part B of such title XVIII; and for the purposes of this Act and title XVIII of the Social Security Act, individuals certified as provided in this section shall be considered individuals described in and certified under such section 21. Notwithstanding the other provisions of this section it shall not apply to any individual who could not be taken into account on the basis of disability in calculating the annuity under the first proviso of section 3(e) without regard to the second paragraph of such section."

HOSPITAL INSURANCE BENEFITS FOR UNINSURED INDIVIDUALS NOT ELIGIBLE UNDER TRANSITIONAL PROVISION

79 Stat. 299.

42 USC 1395i.

SEC. 202. Title XVIII of the Social Security Act is amended by adding after section 1817 the following new section:

"HOSPITAL INSURANCE BENEFITS FOR UNINSURED INDIVIDUALS NOT OTHERWISE ELIGIBLE

"SEC. 1818. (a) Every individual who—

"(1) has attained the age of 65,

"(2) is enrolled under part B of this title,

"(3) is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this section, and

"(4) is not otherwise entitled to benefits under this part,

shall be eligible to enroll in the insurance program established by this part.

"(b) An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

“(c) The provisions of section 1837 (except subsection (f) thereof), section 1838, subsection (c) of section 1839, and subsections (f) and (h) of section 1840 shall apply to persons authorized to enroll under this section except that—

Ante, p. 1372.

Ante, p. 1373.

“(1) individuals who meet the conditions of subsection (a) (1), (3), and (4) on or before the last day of the seventh month after the month in which this section is enacted may enroll under this part and (if not already so enrolled) may also enroll under part B during an initial general enrollment period which shall begin on the first day of the second month which begins after the date on which this section is enacted and shall end on the last day of the tenth month after the month in which this Act is enacted;

“(2) in the case of an individual who first meets the conditions of eligibility under this section on or after the first day of the eighth month after the month in which this section is enacted, the initial enrollment period shall begin on the first day of the third month before the month in which he first becomes eligible and shall end 7 months later;

“(3) in the case of an individual who enrolls pursuant to paragraph (1) of this subsection, entitlement to benefits shall begin on—

“(A) the first day of the second month after the month in which he enrolls,

“(B) July 1, 1973, or

“(C) the first day of the first month in which he meets the requirements of subsection (a), whichever is the latest;

“(4) termination of coverage under this section by the filing of notice that the individual no longer wishes to participate in the hospital insurance program shall take effect at the close of the month following the month in which such notice is filed;

“(5) an individual's entitlement under this section shall terminate with the month before the first month in which he becomes eligible for hospital insurance benefits under section 226 of this Act or section 103 of the Social Security Amendments of 1965; and upon such termination, such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such first month the application required to establish such entitlement; and

Ante, p. 1371;

Post, p. 1463.

42 USC 426a.

“(6) termination of coverage for supplementary medical insurance shall result in simultaneous termination of hospital insurance benefits for uninsured individuals who are not otherwise entitled to benefits under this Act.

“(d) (1) The monthly premium of each individual for each month in his coverage period before July 1974 shall be \$33.

Monthly premiums.

“(2) The Secretary shall, during the last calendar quarter of each year, beginning in 1973, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be equal to \$33, multiplied by the ratio of (A) the inpatient hospital deductible for such next year, as promulgated under section 1813(b)(2), to (B) such deductible promulgated for 1973. Any amount determined under the preceding sentence which is not a multiple of \$1 shall be rounded to the nearest multiple of \$1, or if midway between multiples of \$1 to the next higher multiple of \$1.

42 USC 1395e.

“(e) Payment of the monthly premiums on behalf of any individual

who meets the conditions of subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or arrangement is administratively feasible.

“(f) Amounts paid to the Secretary for coverage under this section shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund.”

AMOUNT OF SUPPLEMENTARY MEDICAL INSURANCE PREMIUM

42 USC 1395r.

SEC. 203. (a) Section 1839(b)(1) of the Social Security Act is amended by inserting “and before July 1, 1973,” after “1967”.

(b) Section 1839(b)(2) of such Act is amended by striking out “thereafter” and inserting in lieu thereof “ending on or before December 31, 1971”.

Ante, p. 1373.

(c) Section 1839 of such Act (as amended by section 201(c)(4) and (5) of this Act) is further amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

“(c)(1) The Secretary shall, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such 12-month period. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

“(2) The monthly premium of each individual enrolled under this part for each month after June 1973 shall, except as provided in subsection (d), be the amount determined under paragraph (3).

“(3) The Secretary shall, during December of 1972 and of each year thereafter, determine and promulgate the monthly premium applicable for the individuals enrolled under this part for the 12-month period commencing July 1 in the succeeding year. The monthly premium shall be equal to the smaller of—

“(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that 12-month period, or

“(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph or, in the case of the determination made in December 1971, such rate promulgated under subsection (b)(2) multiplied by the ratio of (i) the amount in column IV of the table which, by reason of the law in effect at the time the promulgation is made, will be in effect as of June 1 next following such determination appears (or is deemed to appear) in section 215(a) on the line which includes the figure ‘750’ in column III of such table to (ii) the amount in column IV of the table which appeared (or was deemed to appear) in section 215(a) on the line which included the figure ‘750’ in column III as of June 1 of the year in which such determination is made.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving

Ante, pp. 1333,
1334, 1369.

at the amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

"(4) The Secretary shall also, during December of 1972 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such 12-month period with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be incurred in the Federal Supplementary Medical Insurance Trust Fund for such 12-month period with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin."

(d) (1) Section 1839(d) of such Act, as redesignated by subsection (c) of this section, is amended by inserting "or (c)" after "subsection (b)".

(2) Section 1839(f) of such Act, as redesignated by subsection (c) of this section, is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)".

(e) Effective with respect to enrollee premiums payable for months after June 1973, section 1844(a) (1) of such Act is amended to read as follows:

Effective date.
81 Stat. 874.
42 USC 1395w.

"(1) (A) a Government contribution equal to the aggregate premiums payable for a month for enrollees age 65 and over under this part and deposited in the Trust Fund, multiplied by the ratio of—

"(i) twice the dollar amount of the actuarially adequate rate per enrollee age 65 and over as determined under section 1839(c) (1) for such month minus the dollar amount of the premium per enrollee for such month, as determined under section 1839(c) (3), to

Ante, p. 1376.

"(ii) the dollar amount of the premium per enrollee for such month, plus

"(B) a Government contribution equal to the aggregate premiums payable for a month for enrollees under age 65 under this part and deposited in the Trust Fund, multiplied by the ratio of—

"(i) twice the dollar amount of the actuarially adequate rate per enrollee under age 65 as determined under section 1839(c) (4) for such month minus the dollar amount of the premium per enrollee for such month, as determined under section 1839(c) (3), to

"(ii) the dollar amount of the premium per enrollee for such month."

CHANGE IN SUPPLEMENTARY MEDICAL INSURANCE DEDUCTIBLE

SEC. 204. (a) Section 1833(b) of the Social Security Act is amended by striking out "shall be reduced by a deductible of \$50" and inserting in lieu thereof "shall be reduced by a deductible of \$60".

79 Stat. 302.
42 USC 1395l.

(b) Section 1835(c) of such Act is amended by striking out "but only if such charges for such services do not exceed \$50" and inserting in lieu thereof "but only if such charges for such services do not exceed the applicable supplementary medical insurance deductible".

81 Stat. 849.
42 USC 1395n.

(c) The amendments made by this section shall be effective with respect to calendar years after 1972 (except that, for purposes of applying clause (1) of the first sentence of section 1833(b) of the Social Security Act, such amendments shall be deemed to have taken effect on January 1, 1972).

Effective date.

Supra.

AUTOMATIC ENROLLMENT FOR SUPPLEMENTARY MEDICAL INSURANCE

79 Stat. 304;
81 Stat. 859.
42 USC 1395p.

Ante, p. 1372.

SEC. 206. (a) Section 1837 of the Social Security Act is amended by adding at the end thereof the following new subsections:

"(f) Any individual—

"(1) who is eligible under section 1836 to enroll in the medical insurance program by reason of entitlement to hospital insurance benefits as described in paragraph (1) of such section, and

"(2) whose initial enrollment period under subsection (d) begins after March 31, 1973, and

"(3) who is residing in the United States, exclusive of Puerto Rico,

shall be deemed to have enrolled in the medical insurance program established by this part.

"(g) All of the provisions of this section shall apply to individuals satisfying subsection (f), except that—

Ante, p. 1371.

"(1) in the case of an individual who satisfies subsection (f) by reason of entitlement to disability insurance benefits described in section 226(a)(2)(B), his initial enrollment period shall begin on the first day of the later of (A) April 1973 or (B) the third month before the 25th consecutive month of such entitlement, and shall reoccur with each continuous period of eligibility (as defined in section 1839(e)) and upon attainment of age 65;

Ante, p. 1376.

42 USC 402,
423.

"(2) (A) in the case of an individual who is entitled to monthly benefits under section 202 or 223 on the first day of his initial enrollment period or becomes entitled to monthly benefits under section 202 during the first 3 months of such period, his enrollment shall be deemed to have occurred in the third month of his initial enrollment period, and

"(B) in the case of an individual who is not entitled to benefits under section 202 on the first day of his initial enrollment period and does not become so entitled during the first 3 months of such period, his enrollment shall be deemed to have occurred in the month in which he files the application establishing his entitlement to hospital insurance benefits provided such filing occurs during the last 4 months of his initial enrollment period; and

"(3) in the case of an individual who would otherwise satisfy subsection (f) but does not establish his entitlement to hospital insurance benefits until after the last day of his initial enrollment period (as defined in subsection (d) of this section), his enrollment shall be deemed to have occurred on the first day of the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section)."

Ante, p. 1373.

(b) Section 1838(a) of such Act is amended—

(1) by striking out the period at the end of subsection (a) and by inserting in lieu thereof "; or"; and

(2) by adding at the end of subsection (a) the following new paragraph:

"(3) (A) in the case of an individual who is deemed to have enrolled on or before the last day of the third month of his initial enrollment period, the first day of the month in which he first meets the applicable requirements of section 1836 or July 1, 1973, whichever is later, or

"(B) in the case of an individual who is deemed to have enrolled on or after the first day of the fourth month of his initial enrollment period, as prescribed under subparagraphs (B), (C), (D), and (E) of paragraph (2) of this subsection."

(c) Section 1838(b) of such Act (as amended by section 257(a) of this Act) is further amended by adding at the end thereof the following new paragraph:

Post, p. 1447.
42 USC 1395q.

"Where an individual who is deemed to have enrolled for medical insurance pursuant to section 1837(f) files a notice before the first day of the month in which his coverage period begins advising that he does not wish to be so enrolled, the termination of the coverage period resulting from such deemed enrollment shall take effect with the first day of the month the coverage would have been effective and such notice shall not be considered a disenrollment for the purposes of section 1837(b). Where an individual who is deemed enrolled for medical insurance benefits pursuant to section 1837(f) files a notice requesting termination of his deemed coverage in or after the month in which such coverage becomes effective, the termination of such coverage shall take effect at the close of the calendar quarter following the calendar quarter in which the notice is filed."

Ante, p. 1378.

Post, p. 1448.

INCENTIVES FOR STATES TO ESTABLISH EFFECTIVE UTILIZATION
REVIEW PROCEDURES UNDER MEDICAID

SEC. 207. (a) (1) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsections:

79 Stat. 349;
81 Stat. 898.
42 USC 1396b.

"(g) (1) With respect to amounts paid for the following services furnished under the State plan after June 30, 1973 (other than services furnished pursuant to a contract with a health maintenance organization as defined in section 1876), the Federal medical assistance percentage shall be decreased as follows: After an individual has received care as an inpatient in a hospital (including an institution for tuberculosis), skilled nursing home or intermediate care facility on 60 days, or in a hospital for mental diseases on 90 days (whether or not such days are consecutive), during any fiscal year, which for purposes of this section means the four calendar quarters ending with June 30, the Federal medical assistance percentage with respect to amounts paid for any such care furnished thereafter to such individual in the same fiscal year shall be decreased by $33\frac{1}{3}$ per centum thereof unless the State agency responsible for the administration of the plan makes a showing satisfactory to the Secretary that, with respect to each calendar quarter for which the State submits a request for payment at the full Federal medical assistance percentage for amounts paid for inpatient hospital services (including tuberculosis hospitals), skilled nursing home services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), there is in operation in the State an effective program of control over utilization of such services; such a showing must include evidence that—

Post, pp. 1396,
1453.

"(A) in each case for which payment is made under the State plan, a physician certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and recertifies, where such services are furnished over a period of time, in such cases, at least every 60 days, and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services; and

"(B) in each such case, such services were furnished under a plan established and periodically reviewed and evaluated by a physician;

"(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a) (30) whereby the necessity for admission and the continued stay of each patient in such institution is periodically reviewed and evaluated (with such

Post, p. 1416.

frequency as may be prescribed in regulations of the Secretary) by medical and other professional personnel who are not themselves directly responsible for the care of the patient and who are not employed by or financially interested in any such institution; and

“(D) such State has an effective program of medical review of the care of patients in mental hospitals, skilled nursing homes, and intermediate care facilities pursuant to section 1902(a) (26) and (31) whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams.

In determining the number of days on which an individual has received services described in this subsection, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1812.

“(2) The Secretary shall, as part of his validation procedures under this subsection, conduct sample onsite surveys of private and public institutions in which recipients of medical assistance may receive care and services under a State plan approved under this title, and his findings with respect to such surveys (as well as the showings of the State agency required under this subsection) shall be made available for public inspection.

“(h) (1) If the Secretary determines for any calendar quarter beginning after June 30, 1973, with respect to any State that there does not exist a reasonable cost differential between the statewide average cost of skilled nursing home services and the statewide average cost of intermediate care facility services in such State, the Secretary may reduce the amount which would otherwise be considered as expenditures under the State plan by any amount which in his judgment is a reasonable equivalent of the difference between the amount of the expenditures by such State for intermediate care facility services and the amount that would have been expended by such State for such services if there had been a reasonable cost differential between the cost of skilled nursing home services and the cost of intermediate care facility services.

“(2) In determining whether any such cost differential in any State is reasonable the Secretary shall take into consideration the range of such cost differentials in all States.

“(3) For the purposes of this subsection, the term ‘cost differential’ for any State for any quarter means, as determined by the Secretary on the basis of the data for the most recent calendar quarter for which satisfactory data are available, the excess of—

“(A) the average amount paid in such State (regardless of the source of payment) per inpatient day for skilled nursing home services, over

“(B) the average amount paid in such State (regardless of the source of payment) per inpatient day for intermediate care facility services.

“(4) For purposes of this subsection, the term ‘cost’ shall mean amounts reimbursable by the State under a State plan approved under this title.”

(2) Section 1903(a) (1) of such Act is amended by inserting “, subject to subsections (g) and (h) of this section” after “section 1905(b)”.

(b) The amendments made by subsection (a) shall, except as otherwise provided therein, be effective July 1, 1973.

81 Stat. 906;
85 Stat. 809.
42 USC 1396a.

42 USC 1395d.

Cost differential.

“Cost.”

42 USC 1396b.

Effective date.

COST-SHARING UNDER MEDICAID

SEC. 208. (a) Section 1902(a)(14) of the Social Security Act is amended to read as follows:

42 USC 1396a.

“(14) effective January 1, 1973, provide that—

“(A) in the case of individuals receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or who meet the income and resources requirements of the one of such State plans which is appropriate—

42 USC 301,
1201, 1351, 1381,
601.

“(i) no enrollment fee, premium, or similar charge, and no deduction, cost sharing, or similar charge with respect to the care and services listed in clauses (1) through (5) and (7) of section 1905(a), will be imposed under the plan, and

42 USC 1396d.

“(ii) any deduction, cost sharing, or similar charge imposed under the plan with respect to other care and services will be nominal in amount (as determined in accordance with standards approved by the Secretary and included in the plan), and

“(B) with respect to individuals who are not receiving aid or assistance under any such State plan and who do not meet the income and resources requirements of the one of such State plans which is appropriate or who, after December 31, 1973, are included under the State plan for medical assistance pursuant to section 1902(a)(10)(B) approved under title XIX—

“(i) there shall be imposed an enrollment fee, premium, or similar charge which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income, and

“(ii) any deductible, cost-sharing, or similar charge imposed under the plan will be nominal;”.

(b) The amendment made by subsection (a) shall be effective January 1, 1973 (or earlier if the State plan so provided).

Effective date.

MEDICAID CONDITIONS OF ELIGIBILITY FOR CERTAIN EMPLOYED FAMILIES

SEC. 209. (a) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(e) Notwithstanding any other provision of this title, effective January 1, 1974, each State plan approved under this title must provide that each family which was eligible for assistance pursuant to part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment, shall, while a member of such family is employed, remain eligible for such assistance for 4 calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of the income and resources limitations contained in such plan.”

(b) (1) Section 1902 of the Social Security Act, as amended by this section, is further amended by adding at the end thereof the following new subsection:

“(f) Notwithstanding any other provision of this title, except as provided in subsection (e), no State shall be required to provide medical assistance to any aged, blind, or disabled individual (within the meaning of title XVI) for any month unless such State would be (or would have been) required to provide medical assistance to such individual for such month had its plan for medical assistance approved under this title and in effect on January 1, 1972, been in effect in such

month, except that for this purpose any such individual shall be deemed eligible for medical assistance under such State plan if (in addition to meeting such other requirements as are or may be imposed under the State plan) the income of any such individual as determined in accordance with section 1903(f) (after deducting such individual's payment under title XVI, and incurred expenses for medical care as defined in section 213 of the Internal Revenue Code of 1954) is not in excess of the standard for medical assistance established under the State plan as in effect on January 1, 1972."

Effective date.

(2) The amendment made by this subsection shall become effective on January 1, 1974.

PAYMENT UNDER MEDICARE TO INDIVIDUALS COVERED BY FEDERAL
EMPLOYEES HEALTH BENEFITS PROGRAM

79 Stat. 325;
81 Stat. 846.
42 USC 1395y.

SEC. 210. Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) No payment may be made under this title with respect to any item or service furnished to or on behalf of any individual on or after January 1, 1975, if such item or service is covered under a health benefits plan in which such individual is enrolled under chapter 89 of title 5, United States Code, unless prior to the date on which such item or service is so furnished the Secretary shall have determined and certified that such plan or the Federal employees health benefits program under chapter 89 of such title 5 has been modified so as to assure that—

5 USC 8901.

"(1) there is available to each Federal employee or annuitant enrolled in such plan, upon becoming entitled to benefits under part A or B, or both parts A and B of this title, in addition to the health benefits plans available before he becomes so entitled, one or more health benefits plans which offer protection supplementing the protection he has under this title, and

"(2) the Government or such plan will make available to such Federal employee or annuitant a contribution 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 established under chapter 89 of such title 5, with such contribution being in the form of (A) a contribution toward the supplementary protection referred to in paragraph (1), (B) a payment to or on behalf of such employee or annuitant to offset the cost to him of his coverage under this title, or (C) a combination of such contribution and such payment."

PAYMENT UNDER MEDICARE FOR CERTAIN INPATIENT HOSPITAL AND
RELATED PHYSICIANS' SERVICES FURNISHED OUTSIDE THE UNITED
STATES

42 USC 1395f.

SEC. 211. (a) Section 1814(f) of the Social Security Act is amended to read as follows:

"Payment for Certain Inpatient Hospital Services Furnished Outside
the United States

"(f) (1) Payment shall be made for inpatient hospital services furnished to an individual entitled to hospital insurance benefits under section 226 by a hospital located outside the United States, or under arrangements (as defined in section 1861(w)) with it, if—

Ante, p. 1371.
42 USC 1395x.

"(A) such individual is a resident of the United States, and
"(B) such hospital was closer to, or substantially more acces-

sible from, the residence of such individual than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

"(2) Payment may also be made for emergency inpatient hospital services furnished to an individual entitled to hospital insurance benefits under section 226 by a hospital located outside the United States if—

Ante, p. 1371.

"(A) such individual was physically present—

"(i) in a place within the United States; or

"(ii) at a place within Canada while traveling without unreasonable delay by the most direct route (as determined by the Secretary) between Alaska and another State;

at the time the emergency which necessitated such inpatient hospital services occurred, and

"(B) such hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.

"(3) Payment shall be made in the amount provided under subsection (b) to any hospital for the inpatient hospital services described in paragraph (1) or (2) furnished to an individual by the hospital or under arrangements (as defined in section 1861(w)) with it if (A) the Secretary would be required to make such payment if the hospital had an agreement in effect under this title and otherwise met the conditions of payment hereunder, (B) such hospital elects to claim such payment, and (C) such hospital agrees to comply, with respect to such services, with the provisions of section 1866(a).

42 USC 1395x.

"(4) Payment for the inpatient hospital services described in paragraph (1) or (2) furnished to an individual entitled to hospital insurance benefits under section 226 may be made on the basis of an itemized bill to such individual if (A) payment for such services cannot be made under paragraph (3) solely because the hospital does not elect to claim such payment, and (B) such individual files application (submitted within such time and in such form and manner and by such person, and continuing and supported by such information as the Secretary shall by regulations prescribe) for reimbursement. The amount payable with respect to such services shall, subject to the provisions of section 1813, be equal to the amount which would be payable under subsection (d) (3)."

42 USC 1395cc.

(b) Section 1861(e) of such Act is amended—

(1) by striking out "except for purposes of sections 1814(d) and 1835(b)" and inserting in lieu thereof "except for purposes of sections 1814(d), 1814(f), and 1835(b)";

(2) by inserting "section 1814(f) (2)," immediately after "For purposes of sections 1814(d) and 1835(b) (including determination of whether an individual received inpatient hospital services or diagnostic services for purposes of such sections),"; and

42 USC 1395e.

42 USC 1395x.

42 USC 1395f.
Ante, p. 1382.
42 USC 1395n.

(3) by inserting immediately after the third sentence the following new sentence: "For purposes of section 1814(f) (1), such term includes an institution which (i) is a hospital for purposes of sections 1814(d), 1814(f) (2), and 1835(b) and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals."

42 USC 1395y.

(c) (1) Section 1862(a) (4) of such Act is amended—

(A) by striking out “emergency”; and

(B) by inserting after “1814(f)” the following:

“and, subject to such conditions, limitations, and requirements as are provided under or pursuant to this title, physicians’ services and ambulance services furnished an individual in conjunction with such inpatient hospital services but only for the period during which such inpatient hospital services were furnished”.

42 USC 1395x.
Post, pp. 1447,
1449, 1451.

(2) Section 1861(r) of such Act (as amended by sections 256(b) and 264 of this Act) is further amended by adding at the end thereof the following new sentence: “For the purposes of section 1862(a) (4) and subject to the limitations and conditions provided in the previous sentence, such term includes a doctor of one of the arts, specified in such previous sentence, legally authorized to practice such art in the country in which the inpatient hospital services (referred to in such section 1862(a) (4)) are furnished.”

42 USC 1395u.

(3) Section 1842(b) (3) (B) (ii) of such Act is amended by striking out “service;” and inserting in lieu thereof the following: “service (except in the case of physicians’ services and ambulance services furnished as described in section 1862(a) (4), other than for purposes of section 1870(f));”.

42 USC 1395gg.

42 USC 1395l.

(4) Section 1833(a) (1) of such Act is amended by striking out “and” before “(B)”, and by inserting before the semicolon at the end thereof the following: “, and (C) with respect to expenses incurred for those physicians’ services for which payment may be made under this part that are described in section 1862(a) (4), the amounts paid shall be subject to such limitations as may be prescribed by regulations”.

Effective date.

(d) The amendments made by this section shall apply to services furnished with respect to admissions occurring after December 31, 1972.

OPTOMETRISTS’ SERVICES UNDER MEDICAID

42 USC 1396d.

SEC. 212. (a) Section 1905 of the Social Security Act is amended by inserting at the end thereof the following new subsection:

“(e) In the case of any State the State plan of which (as approved under this title)—

42 USC 1396a.

“(1) does not provide for the payment of services (other than services covered under section 1902(a) (12)) provided by an optometrist; but

“(2) at a prior period did provide for the payment of services referred to in paragraph (1);

“Physicians’
services.”

the term ‘physicians’ services’ (as used in subsection (a) (5)) shall include services of the type which an optometrist is legally authorized to perform where the State plan specifically provides that the term ‘physicians’ services’, as employed in such plan, includes services of the type which an optometrist is legally authorized to perform, and shall be reimbursed whether furnished by a physician or an optometrist.”

Effective date.

(b) The provisions of subsection (e) of section 1905 of the Social Security Act (as added by subsection (a) of this section) shall be applicable in the case of services performed on or after the date of enactment of this Act.

LIMITATION ON LIABILITY OF BENEFICIARY WHERE MEDICARE CLAIMS ARE DISALLOWED

Post, pp. 1396,
1419, 1420.

SEC. 213. (a) Title XVIII of the Social Security Act, as amended by sections 226, 242, and 243 of this Act, is further amended by adding at the end thereof the following new section:

"LIMITATION ON LIABILITY OF BENEFICIARY WHERE MEDICARE CLAIMS
ARE DISALLOWED

"SEC. 1879. (a) Where—

"(1) a determination is made that, by reason of section 1862(a) (1) or (9), payment may not be made under part A or part B of this title for any expenses incurred for items or services furnished an individual by a provider of services or by another person pursuant to an assignment under section 1842(b) (3) (B) (ii), and

42 USC 1395y.

42 USC 1395c,
1395j.

Ante, p. 1384.

"(2) both such individual and such provider of services or such other person, as the case may be, did not know, and could not reasonably have been expected to know, that payment would not be made for such items or services under such part A or part B, then to the extent permitted by this title, payment shall, notwithstanding such determination, be made for such items or services (and for such period of time as the Secretary finds will carry out the objectives of this title), as though section 1862(a) (1) and section 1862(a) (9) did not apply. In each such case the Secretary shall notify both such individual and such provider of services or such other person, as the case may be, of the conditions under which payment for such items or services was made and in the case of comparable situations arising thereafter with respect to such individual or such provider or such other person, each shall, by reason of such notice (or similar notices provided before the enactment of this section), be deemed to have knowledge that payment cannot be made for such items or services or reasonably comparable items or services.

"(b) In any case in which the provisions of paragraphs (1) and (2) of subsection (a) are met, except that such provider or such other person, as the case may be, knew, or could be expected to know, that payment for such services or items could not be made under such part A or part B, then the Secretary shall, upon proper application filed within such time as may be prescribed in regulations, indemnify the individual (referred to in such paragraphs), subject to the deductible and coinsurance provisions of this title, for any payments received from such individual by such provider or such other person, as the case may be, for such items or services. Any payments made by the Secretary as indemnification shall be deemed to have been made to such provider or such other person, as the case may be, and shall be treated as overpayments, recoverable from such provider or such other person, as the case may be, under applicable provisions of law. In each such case the Secretary shall notify such individual of the conditions under which indemnification is made and in the case of comparable situations arising thereafter with respect to such individual, he shall, by reason of such notice (or similar notices provided before the enactment of this section), be deemed to have knowledge that payment cannot be made for such items or services.

"(c) No payments shall be made under this title in any cases in which the provisions of paragraph (1) of subsection (a) are met, but both the individual to whom the items or services were furnished and the provider of service or other person, as the case may be, who furnished the items or services knew, or could reasonably have been expected to know, that payment could not be made for items or services under part A or part B by reason of section 1862 (a) (1) or (a) (9).

"(d) In any case arising under subsection (b) (but without regard to whether payments have been made by the individual to the provider or other person) or subsection (c), the provider or other person shall have the same rights that an individual has under section 1869(b) (when the determination is under part A) or section 1842(b) (3) (C)

Post, p. 1464.

Post, p. 1448.

42 USC 1395j.

(when the determination is under part B) when the amount of benefit or payments is in controversy, except that such rights may, under prescribed regulations, be exercised by such provider or other person only after the Secretary determines that the individual will not exercise such rights under such sections.”

Effective date.

42 USC 1395c,
1395j.

(b) The amendments made by this section shall be effective with respect to claims under part A or part B of title XVIII of the Social Security Act, filed with respect to items or services furnished after the date of the enactment of this Act.

LIMITATION ON FEDERAL PARTICIPATION FOR CAPITAL EXPENDITURES

42 USC 1301.

SEC. 221. (a) Title XI of the Social Security Act is amended by adding at the end thereof the following new section:

“LIMITATION ON FEDERAL PARTICIPATION FOR CAPITAL EXPENDITURES

42 USC 701,
1395, 1396.

“SEC. 1122. (a) The purpose of this section is to assure that Federal funds appropriated under titles V, XVIII, and XIX are not used to support unnecessary capital expenditures made by or on behalf of health care facilities or health maintenance organizations which are reimbursed under any of such titles and that, to the extent possible, reimbursement under such titles shall support planning activities with respect to health services and facilities in the various States.

(b) The Secretary, after consultation with the Governor (or other chief executive officer) and with appropriate local public officials, shall make an agreement with any State which is able and willing to do so under which a designated planning agency (which shall be an agency described in clause (ii) of subsection (d) (1) (B) that has a governing body or advisory board at least half of whose members represent consumer interests) will—

“(1) make, and submit to the Secretary together with such supporting materials as he may find necessary, findings and recommendations with respect to capital expenditures proposed by or on behalf of any health care facility or health maintenance organization in such State within the field of its responsibilities.

(2) receive from other agencies described in clause (ii) of subsection (d) (1) (B), and submit to the Secretary together with such supporting material as he may find necessary, the findings and recommendations of such other agencies with respect to capital expenditures proposed by or on behalf of health care facilities or health maintenance organizations in such State within the fields of their respective responsibilities, and

“(3) establish and maintain procedures pursuant to which a person proposing any such capital expenditure may appeal a recommendation by the designated agency and will be granted an opportunity for a fair hearing by such agency or person other than the designated agency as the Governor (or other chief executive officer) may designate to hold such hearings, whenever and to the extent that the findings of such designated agency or any such other agency indicate that any such expenditure is not consistent with the standards, criteria, or plans developed pursuant to the Public Health Service Act (or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963) to meet the need for adequate health care facilities in the area covered by the plan or plans so developed.

“(c) The Secretary shall pay any such State from the Federal Hospital Insurance Trust Fund, in advance or by way of reimbursement as may be provided in the agreement with it (and may make

58 Stat. 682.
42 USC 201
note.
77 Stat. 282.
42 USC 2661
note.

adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (b).

“(d)(1) Except as provided in paragraph (2), if the Secretary determines that—

“(A) neither the planning agency designated in the agreement described in subsection (b) nor an agency described in clause (ii) of subparagraph (B) of this paragraph had been given notice of any proposed capital expenditure (in accordance with such procedure or in such detail as may be required by such agency) at least 60 days prior to obligation for such expenditure; or

“(B)(i) the planning agency so designated or an agency so described had received such timely notice of the intention to make such capital expenditure and had, within a reasonable period after receiving such notice and prior to obligation for such expenditure, notified the person proposing such expenditure that the expenditure would not be in conformity with the standards, criteria, or plans developed by such agency or any other agency described in clause (ii) for adequate health care facilities in such State or in the area for which such other agency has responsibility, and

“(ii) the planning agency so designated had, prior to submitting to the Secretary the findings referred to in subsection (b)—

“(I) consulted with, and taken into consideration the findings and recommendations of, the State planning agencies established pursuant to sections 314(a) and 604(a) of the Public Health Service Act (to the extent that either such agency is not the agency so designated) as well as the public or nonprofit private agency or organization responsible for the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act and covering the area in which the health care facility or health maintenance organization proposing such capital expenditure is located (where such agency is not the agency designated in the agreement), or, if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria included in regulations, similar functions, and

“(II) granted to the person proposing such capital expenditure an opportunity for a fair hearing with respect to such findings;

then, for such period as he finds necessary in any case to effectuate the purpose of this section, he shall, in determining the Federal payments to be made under titles V, XVIII, and XIX with respect to services furnished in the health care facility for which such capital expenditure is made, not include any amount which is attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of proprietary facilities), or other expenses related to such capital expenditure. With respect to any organization which is reimbursed on a per capita basis, in determining the Federal payments to be made under titles V, XVIII, and XIX, the Secretary shall exclude an amount which in his judgment is a reasonable equivalent to the amount which would otherwise be excluded under this subsection if payment were to be made on other than a per capita basis.

“(2) If the Secretary, after submitting the matters involved to the advisory council established or designated under subsection (i), determines that an exclusion of expenses related to any capital expenditure of any health care facility or health maintenance organization would discourage the operation or expansion of such facility

42 USC 246,
291d.

42 USC 701,
1395, 1396.

42 USC 701,
1395, 1396.

or organization, or of any facility of such organization, which has demonstrated to his satisfaction proof of capability to provide comprehensive health care services (including institutional services) efficiently, effectively, and economically, or would otherwise be inconsistent with the effective organization and delivery of health services or the effective administration of title V, XVIII, or XIX, he shall not include such expenses pursuant to paragraph (1).

“(e) Where a person obtains under lease or comparable arrangement any facility or part thereof, or equipment for a facility, which would have been subject to an exclusion under subsection (d) if the person had acquired it by purchase, the Secretary shall (1) in computing such person's rental expense in determining the Federal payments to be made under titles V, XVIII, and XIX with respect to services furnished in such facility, deduct the amount which in his judgment is a reasonable equivalent of the amount that would have been excluded if the person had acquired such facility or such equipment by purchase, and (2) in computing such person's return on equity capital deduct any amount deposited under the terms of the lease or comparable arrangement.

“(f) Any person dissatisfied with a determination by the Secretary under this section may within six months following notification of such determination request the Secretary to reconsider such determination. A determination by the Secretary under this section shall not be subject to administrative or judicial review.

“Capital ex-
penditure.”

“(g) For the purposes of this section, a ‘capital expenditure’ is an expenditure which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (1) exceeds \$100,000, (2) changes the bed capacity of the facility with respect to which such expenditure is made, or (3) substantially changes the services of the facility with respect to which such expenditure is made. For purposes of clause (1) of the preceding sentence, the cost of the studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which such expenditure is made shall be included in determining whether such expenditure exceeds \$100,000.

“(h) The provisions of this section shall not apply to Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

National ad-
visory council,
establishment.

“(i) (1) The Secretary shall establish a national advisory council, or designate an appropriate existing national advisory council, to advise and assist him in the preparation of general regulations to carry out the purposes of this section and on policy matters arising in the administration of this section, including the coordination of activities under this section with those under other parts of this Act or under other Federal or federally assisted health programs.

“(2) The Secretary shall make appropriate provision for consultation between and coordination of the work of the advisory council established or designated under paragraph (1) and the Federal Hospital Council, the National Advisory Health Council, the Health Insurance Benefits Advisory Council, and other appropriate national advisory councils with respect to matters bearing on the purposes and administration of this section and the coordination of activities under this section with related Federal health programs.

Membership.

“(3) If an advisory council is established by the Secretary under paragraph (1), it shall be composed of members who are not otherwise in the regular full-time employ of the United States, and who shall be appointed by the Secretary without regard to the civil service laws from among leaders in the fields of the fundamental sciences, the med-

ical sciences, and the organization, delivery, and financing of health care, and persons who are State or local officials or are active in community affairs or public or civic affairs or who are representative of minority groups. Members of such advisory council, while attending meetings of the council or otherwise serving on business of the council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the maximum rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while away from their homes or regular places of business they may also be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of such title 5 for persons in the Government service employed intermittently."

5 USC 5332
note.

80 Stat. 499.
Effective date.

(b) The amendment made by subsection (a) shall apply only with respect to a capital expenditure the obligation for which is incurred by or on behalf of a health care facility or health maintenance organization subsequent to whichever of the following is earlier: (A) December 31, 1972, or (B) with respect to any State or any part thereof specified by such State, the last day of the calendar quarter in which the State requests that the amendment made by subsection (a) of this section apply in such State or such part thereof.

(c) (1) Section 505(a)(6) of such Act (as amended by section 232(b) of this Act) is further amended by inserting ", consistent with section 1122," after "standards" where it first appears.

Post, p. 1411.

(2) Section 506 of such Act (as amended by sections 224(d), 229(d), 233(d), and 237(b) of this Act) is further amended by adding at the end thereof the following new subsection:

Post, p. 1395.

"(g) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122."

Ante, p. 1386.

(3) Clause (2) of the second sentence of section 509(a) of such Act is amended by inserting ", consistent with section 1122," after "standards".

42 USC 709.

(4) Section 1861(v) of such Act is amended by adding at the end thereof the following new paragraph:

79 Stat. 313.
42 USC 1395x.

"(5) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122."

(5) Section 1902(a)(13)(D) of such Act (as amended by section 232(a) of this Act) is further amended by inserting ", consistent with section 1122," after "standards" where it first appears.

Post, p. 1410.

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

42 USC 1396b.

"(3) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122."

(d) In the case of a health care facility providing health care services as of December 18, 1970, which on such date is committed to a formal plan of expansion or replacement, the amendments made by the preceding provisions of this section shall not apply with respect to such expenditures as may be made or obligations incurred for capital items included in such plan where preliminary expenditures toward the plan of expansion or replacement (including payments for studies, surveys, designs, plans, working drawings, specifications, and site acquisition, essential to the acquisition, improvement, expansion, or replacement of the health care facility or equipment concerned) of \$100,000 or more, had been made during the three-year period ended December 17, 1970.

DEMONSTRATIONS AND REPORTS; PROSPECTIVE REIMBURSEMENT; EXTENDED CARE; INTERMEDIATE CARE AND HOMEMAKER SERVICES; AMBULATORY SURGICAL CENTERS; PHYSICIANS' ASSISTANTS; PERFORMANCE INCENTIVE CONTRACTS

SEC. 222. (a) (1) The Secretary of Health, Education, and Welfare, directly or through contracts with, or grants to, public or private agencies or organizations, shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of making payment on a prospective basis to hospitals, skilled nursing facilities, and other providers of services for care and services provided by them under title XVIII of the Social Security Act and under State plans approved under titles XIX and V of such Act, including alternative methods for classifying providers, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate such providers through positive (or negative) financial incentives to use their facilities and personnel more efficiently and thereby to reduce the total costs of the health programs involved without adversely affecting the quality of services by containing or lowering the rate of increase in provider costs that has been and is being experienced under the existing system of retroactive cost reimbursement.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods of prospective payment under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the programs involved (without committing such programs to the adoption of any prospective payment system either locally or nationally).

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the requirements of titles XVIII, XIX, and V of the Social Security Act insofar as such requirements relate to methods of payment for services provided; and costs incurred in such experiment or project in excess of those which would otherwise be reimbursed or paid under such titles may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary). No experiment or demonstration project shall be developed or carried out under paragraph (1) until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed experiment or project as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct it, and its relationship to other similar experiments or projects already completed or in process; and no such experiment or project shall be actually placed in operation unless at least 30 days prior thereto a written report, prepared for purposes of notification and information only, containing a full and complete description thereof has been transmitted to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate.

(4) Grants, payments under contracts, and other expenditures made for experiments and demonstration projects under this subsection shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act) and from funds appropriated under titles V and XIX of such Act. Grants and payments under contracts may be made either in advance or by way of

42 USC 1395.
42 USC 1396,
701.

42 USC 1395i.

42 USC 1395t.

reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this subsection. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such titles V and XIX) shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

42 USC 701,
1396.

(5) The Secretary shall submit to the Congress no later than July 1, 1974, a full report on the experiments and demonstration projects carried out under this subsection and on the experience of other programs with respect to prospective reimbursement together with any related data and materials which he may consider appropriate. Such report shall include detailed recommendations with respect to the specific methods which could be used in the full implementation of a system of prospective payment to providers of services under the programs involved.

Report to Con-
gress.

(b) (1) Section 402(a) of the Social Security Amendments of 1967 is amended to read as follows:

81 Stat. 930.
42 USC 1395b-1.

“(a) (1) The Secretary of Health, Education, and Welfare is authorized, either directly or through grants to public or nonprofit private agencies, institutions, and organizations or contracts with public or private agencies, institutions, and organizations, to develop and engage in experiments and demonstration projects for the following purposes:

“(A) to determine whether, and if so which, changes in methods of payment or reimbursement (other than those dealt with in section 222(a) of the Social Security Amendments of 1972) for health care and services under health programs established by the Social Security Act, including a change to methods based on negotiated rates, would have the effect of increasing the efficiency and economy of health services under such programs through the creation of additional incentives to these ends without adversely affecting the quality of such services;

Ante, p. 1390.

“(B) to determine whether payments for services other than those for which payment may be made under such programs (and which are incidental to services for which payment may be made under such programs) would, in the judgment of the Secretary, result in more economical provision and more effective utilization of services for which payment may be made under such program, where such services are furnished by organizations and institutions which have the capability of providing—

49 Stat. 620.
42 USC 1305.

“(i) comprehensive health care services,
“(ii) mental health care services (as defined by section 401(c) of the Mental Retardation Facilities and Community Health Centers Construction Act of 1963),

77 Stat. 296.
42 USC 2691.

“(iii) ambulatory health care services (including surgical services provided on an outpatient basis), or

“(iv) institutional services which may substitute, at lower cost, for hospital care;

“(C) to determine whether the rates of payment or reimbursement for health care services, approved by a State for purposes of the administration of one or more of its laws, when utilized to determine the amount to be paid for services furnished in such State under the health programs established by the Social Security Act, would have the effect of reducing the costs of such programs without adversely affecting the quality of such services;

“(D) to determine whether payments under such programs based on a single combined rate of reimbursement or charge for

the teaching activities and patient care which residents, interns, and supervising physicians render in connection with a graduate medical education program in a patient facility would result in more equitable and economical patient care arrangements without adversely affecting the quality of such care;

42 USC 1395. (E) to determine whether coverage of intermediate care facility services and homemaker services would provide suitable alternatives to posthospital benefits presently provided under title XVIII of the Social Security Act; such experiment and demonstration projects may include:

“(i) counting each day of care in an intermediate care facility as one day of care in a skilled nursing facility, if such care was for a condition for which the individual was hospitalized,

“(ii) covering the services of homemakers for a maximum of 21 days, if institutional services are not medically appropriate,

“(iii) determining whether such coverage would reduce long-range costs by reducing the lengths of stay in hospitals and skilled nursing facilities, and

“(iv) establishing alternative eligibility requirements and determining the probable cost of applying each alternative, if the project suggests that such extension of coverage would be desirable;

42 USC 1305. (F) to determine whether, and if so which type of, fixed price or performance incentive contract would have the effect of inducing to the greatest degree effective, efficient, and economical performance of agencies and organizations making payment under agreements or contracts with the Secretary for health care and services under health programs established by the Social Security Act;

“(G) to determine under what circumstances payment for services would be appropriate and the most appropriate, equitable, and noninflationary methods and amounts of reimbursement under health care programs established by the Social Security Act for services, which are performed independently by an assistant to a physician, including a nurse practitioner (whether or not performed in the office of or at a place at which such physician is physically present), and—

“(i) which such assistant is legally authorized to perform by the State or political subdivision wherein such services are performed, and

“(ii) for which such physician assumes full legal and ethical responsibility as to the necessity, propriety, and quality thereof;

42 USC 1395j, 1396. (H) to establish an experimental program to provide day-care services, which consist of such personal care, supervision, and services as the Secretary shall by regulation prescribe, for individuals eligible to enroll in the supplemental medical insurance program established under part B of title XVIII and title XIX of the Social Security Act, in day-care centers which meet such standards as the Secretary shall by regulation establish; and

“(I) to determine whether the services of clinical psychologists may be made more generally available to persons eligible for services under titles XVIII and XIX of this Act in a manner consistent with quality of care and equitable and efficient administration.

For purposes of this subsection, 'health programs established by the Social Security Act' means the program established by title XVIII of such Act, a program established by a plan of a State approved under title XIX of such Act, and a program established by a plan of a State approved under title V of such Act.

"(2) Grants, payments under contracts, and other expenditures made for experiments and demonstration projects under paragraph (1) shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act) and from funds appropriated under titles V and XIX of such Act. Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such titles V and XIX) shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved."

(2) Section 402(b) of such amendments is amended—

(A) by striking out "experiment" each time it appears and inserting in lieu thereof "experiment or demonstration project";

(B) by striking out "experiments" and inserting in lieu thereof "experiments and projects"; and

(C) by striking out "reasonable charge" and inserting in lieu thereof "reasonable charge, or to reimbursement or payment only for such services or items as may be specified in the experiment".

(c) Section 1875(b) of the Social Security Act is amended—

(1) by striking out "experimentation" and inserting in lieu thereof "experiments and demonstration projects", and

(2) by inserting "and the experiments and demonstration projects authorized by section 222(a) of the Social Security Amendments of 1972" after "1967".

LIMITATIONS ON COVERAGE OF COSTS UNDER MEDICARE

SEC. 223. (a) The first sentence of section 1861(v)(1) of the Social Security Act is amended by inserting immediately before "determined" where it first appears the following: "the cost actually incurred, excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of needed health services, and shall be".

(b) The third sentence of section 1861(v)(1) of such Act is amended by striking out the comma after "services," where it last appears and inserting in lieu thereof the following: "may provide for the establishment of limits on the direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services to be recognized as reasonable based on estimates of the costs necessary in the efficient delivery of needed health services to individuals covered by the insurance programs established under this title,".

(c) The fourth sentence of section 1861(v)(1) of such Act is amended by inserting after "services" when it first appears the following: "(excluding therefrom any such costs, including standby costs, which are determined in accordance with regulations to be unnecessary in the efficient delivery of services covered by the insurance programs established under this title)".

Definition.

42 USC 1395.

42 USC 1396.

42 USC 701.

42 USC 1395i.

42 USC 1395t.

42 USC 1395b-1.

42 USC 1395ll.

Ante, p. 1390.

42 USC 1395x.

Ante, p. 1393.

(d) The fourth sentence of section 1861(v) (1) of such Act is further amended by striking out "costs with respect" where it first appears and inserting in lieu thereof the following: "necessary costs of efficiently delivering covered services".

42 USC 1395cc.

(e) Section 1866(a) (2) (B) of such Act is amended (1) by inserting "(i)" after "(B)", and (2) by adding at the end thereof the following new clause:

"(ii) Where a provider of services customarily furnishes an individual items or services which are more expensive than the items or services determined to be necessary in the efficient delivery of needed health services under this title and which have not been requested by such individual, such provider may (except with respect to emergency services) also charge such individual or other person for such more expensive items or services to the extent that the costs of (or, if less, the customary charges for) such more expensive items or services experienced by such provider in the second fiscal period immediately preceding the fiscal period in which such charges are imposed exceed the cost of such items or services determined to be necessary in the efficient delivery of needed health services, but only if—

"(I) the Secretary has provided notice to the public of any charges being imposed on individuals entitled to benefits under this title on account of costs in excess of the costs determined to be necessary in the efficient delivery of needed health services under this title by particular providers of services in the area in which such items or services are furnished, and

"(II) the provider of services has identified such charges to such individual or other person, in such manner as the Secretary may prescribe, as charges to meet costs in excess of the cost determined to be necessary in the efficient delivery of needed health services under this title."

Ante, p. 1389.

(f) Section 1861(v) of such Act (as amended by section 221(c) (4) of this Act) is further amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) If a provider of services furnishes items or services to an individual which are in excess of or more expensive than the items or services determined to be necessary in the efficient delivery of needed health services and charges are imposed for such more expensive items or services under the authority granted in section 1866(a) (2) (B) (ii), the amount of payment with respect to such items or services otherwise due such provider in any fiscal period shall be reduced to the extent that such payment plus such charges exceed the cost actually incurred for such items or services in the fiscal period in which such charges are imposed."

Supra.

(g) (1) Section 1866(a) (2) of such Act is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) Where a provider of services customarily furnishes items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this title, such provider, notwithstanding the preceding provisions of this paragraph, may not, under the authority of section 1866(a) (2) (B) (ii), charge any individual or other person any amount for such items or services in excess of the amount of the payment which may otherwise be made for such items or services under this title if the admitting physician has a direct or indirect financial interest in such provider."

(2) The last paragraph of section 1866(a) (2) is amended by striking out "clause (iii) of the preceding sentence" and inserting in lieu thereof "subparagraph (C)".

Effective date.

(h) The amendments made by this section shall be effective with respect to accounting periods beginning after December 31, 1972.

LIMITS ON PREVAILING CHARGE LEVELS

SEC. 224. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentences: "No charge may be determined to be reasonable in the case of bills submitted or requests for payment made under this part after December 31, 1970, if it exceeds the higher of (i) the prevailing charge recognized by the carrier and found acceptable by the Secretary for similar services in the same locality in administering this part on December 31, 1970, or (ii) the prevailing charge level that, on the basis of statistical data and methodology acceptable to the Secretary, would cover 75 percent of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing prior to the start of the fiscal year in which the bill is submitted or the request for payment is made. In the case of physician services the prevailing charge level determined for purposes of clause (ii) of the preceding sentence for any fiscal year beginning after June 30, 1973, may not exceed (in the aggregate) the level determined under such clause for the fiscal year ending June 30, 1973, except to the extent that the Secretary finds, on the basis of appropriate economic index data, that such higher level is justified by economic changes. In the case of medical services, supplies, and equipment (including equipment servicing) that, in the judgment of the Secretary, do not generally vary significantly in quality from one supplier to another, the charges incurred after December 31, 1972, determined to be reasonable may not exceed the lowest charge levels at which such services, supplies, and equipment are widely and consistently available in a locality except to the extent and under the circumstances specified by the Secretary."

42 USC 1395u.

(b) The Health Insurance Benefits Advisory Council established under section 1867 of the Social Security Act shall conduct a study of the methods of reimbursement for physicians' services under Medicare for the purpose of evaluating their effects on (1) physicians' fees generally, (2) the extent of assignments accepted by physicians, and (3) the share of total physician-fee costs which the Medicare program does not pay and which the beneficiary must assume. The Council shall report the results of such study to the Congress no later than January 1, 1973, together with a presentation of alternatives to the present methods and its recommendations as to the preferred method.

Reimbursement
for physicians'
services, study.
Post, p. 1457.

Report to Con-
gress.

(c) Section 1903 of such Act is amended by adding at the end thereof (after the new subsections added by section 207(a)(1) of this Act) the following new subsection:

42 USC 1396b.

Ante, p. 1379.

"(i) Payment under the preceding provisions of this section shall not be made with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the third, fourth, and fifth sentences of section 1842(b)(3)."

(d) Section 506 of such Act is amended by adding at the end thereof the following new subsection:

Supra.81 Stat. 924.
42 USC 706.

"(f) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the third, fourth, and fifth sentences of section 1842(b)(3)."

Supra.

LIMITS ON PAYMENT FOR SKILLED NURSING HOME AND INTERMEDIATE CARE
FACILITY SERVICES

SEC. 225. Section 1903 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 224 (c) of this Act) the following new subsection:

Ante, p. 1395.

“(j) Notwithstanding the preceding provisions of this section—

“(1) in determining the amount payable to any State with respect to expenditures for skilled nursing home services furnished in any calendar quarter beginning after December 31, 1972, there shall not be included as expenditures under the State plan any amount in excess of the product of (A) the number of inpatient days of skilled nursing home services provided under the State plan in such quarter, and (B) 105 per centum of the average per diem cost of such services for the fourth calendar quarter preceding such calendar quarter; and

“(2) in determining the amount payable to any State with respect to expenditures for intermediate care facility services furnished in any calendar quarter beginning after December 31, 1972, there shall not be included as expenditures under the State plan any amount in excess of the product of (A) the number of inpatient days of intermediate care facility services provided in such quarter under each of the plans of such State approved under titles I, X, XIV, XVI, and XIX, and (B) 105 per centum of the average per diem cost of such services for the fourth calendar quarter preceding such calendar quarter.

42 USC 301,
1201, 1351, 1381,
1396.

For purposes of determining the amount payable to any State with respect to any quarter under paragraphs (1) and (2), the Secretary may by regulation increase the percentage specified in clause (B) of each such paragraph to the extent necessary to take account of increases in per diem costs which result directly from increases in the Federal minimum wage, or which otherwise result directly from cost increases which the Secretary determines are attributable to the upgrading of services and facilities required by this Act or from provisions of Federal law enacted (or amendments to Federal law made) after the date of the enactment of the Social Security Amendments of 1972.”

PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

42 USC 1395.

SEC. 226. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

“PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

Post, p. 1411.
42 USC 1395f.

“SEC. 1876. (a) (1) In lieu of amounts which would otherwise be payable pursuant to sections 1814(b) and 1833(a), the Secretary is authorized to determine, by actuarial methods, as provided in this section, but only with respect to a health maintenance organization with which he has entered into a contract under subsection (i), a per capita rate of payment—

“(A) for services provided under parts A and B for individuals enrolled with such organization pursuant to subsection (e) who are entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B, and

“(B) for services provided under part B for individuals enrolled with such organization pursuant to subsection (e) who are not entitled to benefits under part A but who are enrolled for benefits under part B.

"(2) An interim per capita rate of payment for each health maintenance organization shall be determined annually by the Secretary on the basis of each organization's annual operating budget and enrollment forecast which shall be submitted (in such form and in such detail as the Secretary may prescribe) at least 90 days before the beginning of each contract year. Each interim rate shall be equal to the estimated per capita cost (based upon types and components of expenses otherwise reimbursable under this title) of providing services defined in paragraph (3) (A) (iii). In the event that the data requested to be furnished by a health maintenance organization are not furnished timely, such reduction in interim payments may be made by the Secretary as is appropriate, until such time as a reasonable estimate of per capita costs can be made. Each month, the Secretary shall pay each such organization its interim per capita rate, in advance, for each individual enrolled with it pursuant to subsection (e). Each such organization shall submit interim estimated cost reports and enrollment data on a quarterly basis in such form and manner satisfactory to the Secretary, and the Secretary shall adjust each interim per capita rate to the extent necessary to maintain interim payments at the level of current costs. Interim payments made under this paragraph shall be subject to retroactive adjustment at the end of each contract year as provided in paragraph (3).

Interim per capita rate.

Infra.

Interim estimated cost reports.

"(3) (A) With respect to any health maintenance organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i) (2) (A), payments made to such organization shall be subject to the following adjustments at the end of each contract year:

Adjustments.

"(i) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is less than the adjusted average per capita incurred cost (as defined herein) of providing such services, the resulting difference (hereinafter referred to as 'savings') shall be apportioned following the close of a contract year for such year between such organization and the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (hereinafter collectively referred to as the 'Medicare Trust Funds') as follows:

Per capita incurred cost, apportionment.

"(I) savings up to 20 percent of the adjusted average per capita cost shall be apportioned equally between such organization and the Medicare Trust Funds;

"(II) savings in excess of 20 percent of the adjusted average per capita cost shall be apportioned entirely to such Trust Funds;

"(ii) if the Secretary determines that the per capita incurred cost of any such organization in any contract year for providing services described in paragraph (1) is greater than the adjusted average per capita incurred cost of providing such services, the resulting difference (hereinafter referred to as 'losses'), shall be absorbed by such organization, and shall be carried forward and offset from savings realized in later years, with the apportionment of savings being proportional to the losses absorbed and not yet offset;

Losses.

"(iii) determination of any amounts payable at the close of the contract year to such organization or to the Trust Funds shall be made as follows:

"(I) within 90 days after close of a contract year, interim determination of the amount of estimated savings and apportionment thereof shall be made, actuarially, on the basis of interim reports of costs incurred by an organization, and

adjusted average per capita costs incurred (as defined herein), and other evidence acceptable to the Secretary and one-half of any amounts deemed payable to such organization or the Trust Funds shall be paid by such organization or the Secretary as appropriate;

“(II) final settlement and payment by the Secretary or organization, as appropriate, of any additional amounts due on basis of such final settlement will be made where adequate data for actuarial computation are available, in timely fashion following submission by such organization of reports specified in subparagraph (C) of this paragraph; and

“(III) where such final settlement is reached more than 90 days following submission of reports specified in subparagraph (C) of this paragraph, any amount payable by the Secretary or organization shall be increased by an interest amount, accruing from the 91st day following submission of such report, equal to the average rate of interest payable on Federal obligations if issued on such 91st day for purchase by the Trust Funds.

“(iv) The term ‘adjusted average per capita cost’ means the average per capita amount that the Secretary determines (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in the geographic area served by a health maintenance organization or in a similar area, with appropriate adjustment to assure actuarial equivalence, including adjustments relating to age distribution, sex, race, institutional status, disability status, and any other relevant factors) would be payable in any contract year for services covered under this title and types of expenses otherwise reimbursable under this title (including administrative costs incurred by organizations described in sections 1816 and 1842) if such services were to be furnished by other than such health maintenance organization.

“(B) With respect to any health maintenance organization which has entered into a reasonable cost reimbursement contract with the Secretary pursuant to subsection (i) (2) (B), payments made to such organization shall be subject to suitable retroactive corrective adjustments at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding therefrom any part of incurred cost found to be unnecessary in the efficient delivery of health services) for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in paragraph (1).

“(C) Any contract with a health maintenance organization under this title shall provide that the Secretary shall require, at such time following the expiration of each accounting period of a health maintenance organization (and in such form and in such detail) as he may prescribe:

“(i) that such health maintenance organization report to him in an independently certified financial statement its per capita incurred cost based on the types and components of expenses otherwise reimbursable under this title for providing services described in paragraph (1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

“(ii) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

“Adjusted
average per
capita cost.”

79 Stat. 297;
Post, p. 1449.
42 USC 1395h,
1395u.

Retroactive
corrective ad-
justments.

“(iii) that in any case in which a health maintenance organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the health maintenance organization by related organizations and owners) issued by the Secretary in accordance with section 1861(v) of the Social Security Act; and

42 USC 1395x.

“(iv) that in any case in which compensation is paid by a health maintenance organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

“(4) The payments to health maintenance organizations under this subparagraph with respect to individuals described in subsection (a) (1)(A) shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of such payment to such an organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

“(A) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1)) who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for such month as determined under section 1839 (c) (1), and

Ante, p. 1376.

“(B) the product of (i) the number of covered enrollees of such organization for such month (as described in paragraph (1)) who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for such month as determined under section 1839 (c) (4).

Ante, p. 1377.

The remainder of such payment shall be paid by the former trust fund. For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122.

Ante, p. 1386.

“(b) The term ‘health maintenance organization’ means a public or private organization which—

“Health maintenance organization.”

“(1) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on the basis of a predetermined periodic rate without regard to the frequency or extent of services furnished to any particular enrollee;

“(2) provides, either directly or through arrangements with others, to the extent applicable in subsection (c) (through institutions, entities, and persons meeting the applicable requirements of section 1861), all of the services and benefits covered under parts A and B of this title which are available to individuals residing in the geographic area served by the health maintenance organization;

42 USC 1395x.

42 USC 1395c, 1395j.

“(3) provides physicians’ services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a

per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"Specialty care physician."

"(4) provides either directly or under arrangements with others, the services of a sufficient number of primary care and specialty care physicians to meet the health needs of its members; for purposes of this section the term 'specialty care physician' means a physician who is either board certified or eligible for board certification, except that the Secretary may by regulation prescribe conditions under which physicians who have a record of demonstrated proficiency but who are not eligible for board certification may, on the basis of training and experience, be recognized as specialty care physicians;

"(5) has effective arrangements to assure that its members have access to qualified practitioners in those specialties which are generally available in the geographic area served by the health maintenance organization;

"(6) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services, efficiently, effectively, and economically;

"(7) except as provided in subsection (h), has at least half of its enrolled members consisting of individuals under age 65;

"(8) assures that the health services required by its members are received promptly and appropriately and that the services that are received measure up to quality standards which it establishes in accordance with regulations; and

"(9) has an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of paragraph (7)) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by such health maintenance organization.

"(c) The benefits provided under this section to enrollees of an organization which has entered into a risk sharing contract with the Secretary pursuant to subsection (i) (2) (A) shall consist of—

Post, p. 1401.

"(1) in the case of an individual who is entitled to hospital insurance benefits under part A and enrolled for medical insurance benefits under part B—

42 USC 1395c.

42 USC 1395j.

"(A) entitlement to have payment made on his behalf for all services described in section 1812 and section 1832 which are furnished to him by the health maintenance organization with which he is enrolled pursuant to subsection (e) of this section; and

79 Stat. 291.

42 USC 1395d.

Post, p. 1406.

"(B) entitlement to have payment made by such health maintenance organization to him or on his behalf for (i) such emergency services (as defined in regulations), (ii) such urgently needed services (as defined in regulations) furnished to him during a period of temporary absence (as defined in regulations) from the geographic area served by the health maintenance organization with which he is enrolled, and (iii) such other services as may be determined, in accordance with subsection (f), to be services which the individual was entitled to have furnished by the health

maintenance organization, as may be furnished to him by a physician, supplier, or provider of services, other than the health maintenance organization with which he is enrolled; and

“(2) in the case of an individual who is not entitled to hospital insurance benefits under part A but who is enrolled for medical insurance benefits under part B, entitlement to have payment made for services described in paragraph (1), but only to the extent that such services are also described in section 1832.

“(d) Subject to the provisions of subsection (e), every individual described in subsection (c) shall be eligible to enroll with any health maintenance organization (as defined in subsection (b)) which serves the geographic area in which such individual resides.

“(e) An individual may enroll with a health maintenance organization under this section, and may terminate such enrollment, as may be prescribed by regulations.

“(f) Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive without additional cost to him any health service to which he believes he is entitled shall, if the amount in controversy is \$100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b) and in any such hearing the Secretary shall make such health maintenance organization a party thereto. If the amount in controversy is \$1,000 or more, such individual or health maintenance organization shall be entitled to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

“(g)(1) If the health maintenance organization provides its enrollees under this section only the services described in subsection (c), its premium rate or other charges for such enrollees shall not exceed the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B, if they were not enrolled under this section.

“(2) If the health maintenance organization provides to its enrollees under this section services in addition to those described in subsection (c), election of coverage for such additional services shall be optional for such enrollees and such organization shall furnish such enrollees with information on the portion of its premium rate or other charges applicable to such additional services. The portion applicable to the services described in subsection (c) may not exceed (i) the actuarial value of the deductible and coinsurance which would otherwise be applicable to such enrollees under part A and part B if they were not enrolled under this section less (ii) the actuarial value of other charges made in lieu of such deductible and coinsurance.

“(h) The provisions of paragraph (7) of subsection (b) shall not apply with respect to any health maintenance organization for such period not to exceed three years from the date such organization enters into an agreement with the Secretary pursuant to subsection (i), as the Secretary may permit, but only so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plans for each year that it is making continuous efforts and progress toward achieving compliance with the provisions of such paragraph (7) within such three-year period.

“(i)(1) Subject to the limitations contained in subparagraphs (A) and (B) of paragraph (2), the Secretary is authorized to enter into a contract with any health maintenance organization which undertakes to provide, on an interim per capita prepayment basis, the services described in section 1832 (and section 1812, in the case of indi-

42 USC 1395c.

42 USC 1395j.

79 Stat. 302.

42 USC 1395k.

Hearings; judicial review.

53 Stat. 1368.

42 USC 405.

Nonapplicability.

Contract authority.

42 USC 1395d.

42 USC 1395c.

viduals who are entitled to hospital insurance benefits under part A) to individuals enrolled with such organization pursuant to subsection (e).

Risk-sharing
contract.

“(2) (A) If the health maintenance organization (i) has a current enrollment of not less than 25,000 members on a prepaid capitation basis and has been the primary source of health care of at least 8,000 persons in each of the two years immediately preceding the contract year, or (ii) serves a nonurban geographic area, has a current enrollment of not less than 5,000 members on a prepaid capitation basis and has been the primary source of health care for at least 1,500 persons in each of the three years immediately preceding the contract year, the Secretary may enter into a risk sharing contract with such organization pursuant to which any savings, as determined pursuant to subsection (a) (3) (A), are shared between such organization and the Medicare Trust Funds in the manner prescribed in such subsection. For purposes of this subparagraph, a health maintenance organization shall be considered to serve a nonurban geographic area if it is located in a nonmetropolitan county (that is, a county with fewer than 50,000 inhabitants), or if it has at least one such county in its normal service area, or if it is located outside of a metropolitan area and its facilities are within reasonable travel distance (as defined by the Secretary) of fewer than 50,000 individuals. No health maintenance organization which has entered into a risk-sharing contract with the Secretary under this subparagraph and has voluntarily terminated such contract may again enter into such a contract.

Nonurban geo-
graphic area.

Prohibition.

“(B) If the health maintenance organization does not meet the requirements of subparagraph (A), or if the Secretary is not satisfied that the health maintenance organization has the capacity to bear the risk of potential losses as determined under clause (ii) of subsection (a) (3) (A), or if the health maintenance organization meeting the requirements of subparagraph (A) so elects, or if an organization does not fully meet the requirements of section 1876(b) but has demonstrated to the satisfaction of the Secretary that it is making reasonable efforts to meet, and is developing the capability to fully meet, such requirements, and that it fully meets such basic requirements as the Secretary shall prescribe in regulations, the Secretary may, if he is otherwise satisfied that the health maintenance organization or other organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in subsection (a) (3) (B).

Ante, p. 1399.

42 USC 1395x.

“(3) Such contract may, at the option of such organization, provide that the Secretary (A) will reimburse hospitals and extended care facilities for the reasonable cost (as determined under section 1861(v)) of services furnished to individuals enrolled with such organization pursuant to subsection (e), and (B) will deduct the amount of such reimbursement from payments which would otherwise be made to such organization. If a health maintenance organization pays a hospital or extended care facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

Contract term,
renewal.

“(4) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any

time (after such reasonable notice and opportunity for hearing to the health maintenance organization involved as he may provide in regulations), if he finds that the organization (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b).

Contract termination, notice, hearing.

“(5) The effective date of any contract executed pursuant to this subsection shall be specified in such contract pursuant to the regulations.

“(6) Each contract under this section—

“(A) shall provide that the Secretary, or any person or organization designated by him—

“(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under such contract; and

Inspection authority.

“(ii) shall have the right to audit and inspect any books and records of such health maintenance organization which pertain to services performed and determinations of amounts payable under such contract;

“(B) shall provide that no reinsurance costs (other than those with respect to out-of-area services), including any underwriting of risk relating to costs in excess of adjusted average per capita cost, as defined in clause (iii) of subsection (a) (3) (A), shall be allowed for purposes of determining payments authorized under this section; and

“(C) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

“(j) The function vested in the Secretary by subsection (i) may be performed without regard to such provisions of law or of other regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purposes of this title.”

(b) (1) Notwithstanding the provisions of section 1814 and section 1833 of the Social Security Act, any health maintenance organization which has entered into a contract with the Secretary pursuant to section 1876 of such Act shall, for the duration of such contract, (except as provided in paragraph (2)) be entitled to reimbursement only as provided in section 1876 of such Act for individuals who are members of such organizations.

42 USC 1395f, 1395f.

Ante, p. 1396.

(2) With respect to individuals who are members of organizations which have entered into a risk-sharing contract with the Secretary pursuant to subsection (i) (2) (A) prior to July 1, 1973, and who, although eligible to have payment made pursuant to section 1876 of such Act for services rendered to them, chose (in accordance with regulations) not to have such payment made pursuant to such section, the Secretary shall, for a period not to exceed three years commencing on July 1, 1973, pay to such organization on the basis of an interim per capita rate, determined in accordance with the provisions of section 1876(a) (2) of such Act, with appropriate actuarial adjustments to reflect the difference in utilization of out-of-plan services, which would have been considered sufficiently reasonable and necessary under the rules of the health maintenance organization to be provided by that organization, between such individuals and individuals who are enrolled with such organization pursuant to section 1876 of such Act. Payments under this paragraph shall be subject to retroactive adjustment at the end of each contract year as provided in paragraph (3).

Ante, p. 1402.

Retroactive adjustment.

Ante, p. 1396.

79 Stat. 294.
42 USC 1395f.

79 Stat. 302.
42 USC 1395f.

Ante, p. 1393.

Ante, p. 1396.

42 USC 1396b.

Technical assistance to States.

Effective date.

(3) If the Secretary determines that the per capita cost of any such organization in any contract year for providing services to individuals described in paragraph (2), when combined with the cost of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such year for providing out-of-plan services to such individuals, is less than or greater than the adjusted average per capita cost (as defined in section 1876(a)(3) of such Act) of providing such services, the resulting savings shall be apportioned between such organization and such Trust Funds, or the resulting losses shall be absorbed by such organization, in the manner prescribed in section 1876(a)(3) of such Act.

(c)(1) Section 1814(a) of such Act is amended by striking out "Except as provided in subsection (d)," and inserting in lieu thereof the following: "Except as provided in subsection (d) and in section 1876,".

(2) Section 1833(a) of such Act is amended by striking out "Subject to" and inserting in lieu thereof the following: "Except as provided in section 1876, and subject to".

(d) Section 1875(b) of the Social Security Act, as amended by section 222(c) of this Act, is further amended—

(1) by inserting "the operation and administration of health maintenance organizations authorized by section 226 of the Social Security Amendments of 1972," after the word "including"; and

(2) by striking out "1971" and inserting in lieu thereof "1972".

(e) Section 1903 of such Act, as amended by sections 207, 224, and 290 of this Act, is further amended by adding after subsection (j) the following new subsection:

"(k) The Secretary is authorized to provide at the request of any State (and without cost to such State) such technical and actuarial assistance as may be necessary to assist such State to contract with any health maintenance organization which meets the requirements of section 1876 for the purpose of providing medical care and services to individuals who are entitled to medical assistance under this title."

(f) The amendments made by this section shall be effective with respect to services provided on or after July 1, 1973.

PAYMENT UNDER MEDICARE FOR SERVICES OF PHYSICIANS RENDERED AT A TEACHING HOSPITAL

42 USC 1395x.

SEC. 227. (a) Section 1861(b) of the Social Security Act is amended by striking out the second sentence and inserting in lieu thereof the following:

"Paragraph (4) shall not apply to services provided in a hospital by—

"(6) an intern or a resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association or, in the case of an osteopathic hospital, approved by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association, or, in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of dentistry, approved by the Council on Dental Education of the American Dental Association; or

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), unless (A) such inpatient is a private patient (as defined in regulations), or (B) the hospital establishes that during the two-year period ending December 31, 1967, and each year thereafter all inpatients have been

regularly billed by the hospital for services rendered by physicians and reasonable efforts have been made to collect in full from all patients and payment of reasonable charges (including applicable deductibles and coinsurance) has been regularly collected in full or in substantial part from at least 50 percent of all inpatients."

(b)(1) So much of section 1814(a) of such Act as precedes paragraph (1) (as amended by section 226(c)(1) of this Act) is further amended by striking out "subsection (d)" and inserting in lieu thereof "subsections (d) and (g)".

42 USC 1395f.

(2) Section 1814 is further amended by adding at the end thereof the following new subsection:

Ante, p. 1382.

"Payment for Services of a Physician Rendered in a Teaching Hospital

"(g) For purposes of services for which the reasonable cost thereof is determined under section 1861(v)(1)(D), payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

Infra.

"(1) such hospital has an agreement with the Secretary under section 1866, and

42 USC 1395cc.

"(2) the Secretary has received written assurances that (A) such payment will be used by such fund solely for the improvement of care of hospital patients or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged, provision will be made for return of any moneys incorrectly collected)."

(c) Section 1861(v)(1) of such Act (as amended by section 223 of this Act) is amended—

42 USC 1395x.

(1) by inserting "(A)" after "(1)";

(2) by striking out "(A) take" and "(B) provide" in the fourth sentence and inserting in lieu thereof "(i) take" and "(ii) provide", respectively;

(3) by inserting "(B)" immediately preceding "Such regulations in the case of extended care services"; and

(4) by adding at the end thereof the following new subparagraphs:

"(C) Where a hospital has an arrangement with a medical school under which the faculty of such school provides services at such hospital, an amount not in excess of the reasonable cost of such services to the medical school shall be included in determining the reasonable cost to the hospital of furnishing services—

"(i) for which payment may be made under part A, but only if

42 USC 1395c.

"(I) payment for such services as furnished under such arrangement would be made under part A to the hospital had such services been furnished by the hospital, and

"(II) such hospital pays to the medical school at least the reasonable cost of such services to the medical school, or

42 USC 1395j.

"(ii) for which payment may be made under part B, but only if such hospital pays to the medical school at least the reasonable cost of such services to the medical school.

Infra.

"(D) Where (i) physicians furnish services which are either inpatient hospital services (including services in conjunction with the teaching programs of such hospital) by reason of paragraph (7) of subsection (b) or for which entitlement exists by reason of clause (II) of section 1832 (a)(2)(B) (i) and (ii) such hospital (or medical school under arrangement with such hospital) incurs no actual cost in the furnishing of such services, the reasonable cost of such services shall (under regulations of the Secretary) be deemed to be the cost such hospital or medical school would have incurred had it paid a salary to such physicians rendering such services approximately equivalent to the average salary paid to all physicians employed by such hospital (or if such employment does not exist, or is minimal in such hospital, by similar hospitals in a geographic area of sufficient size to assure reasonable inclusion of sufficient physicians in development of such average salary)."

42 USC 1395x.

(d) (1) Section 1861(u) of such Act is amended by inserting before the period at the end thereof the following: ", or, for purposes of section 1814(g) and section 1835(e), a fund".

Ante, p. 1405;
Infra.

42 USC 1395cc.

(2) So much of section 1866(a)(1) of such Act as precedes subparagraph (A) is amended by inserting "(except a fund designated for purposes of section 1814(g) and section 1835(e))" after "provider of services".

42 USC 1395k.

(e) (1) Section 1832(a)(2)(B) of such Act is amended to read as follows:

"(B) medical and other health services furnished by a provider of services or by others under arrangement with them made by a provider of services, excluding—

"(i) physician services except where furnished by—

"(I) a resident or intern of a hospital, or

"(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1861(b) (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), unless either clause (A) or (B) of paragraph (7) of such section is met, and

"(ii) services for which payment may be made pursuant to section 1835(b)(2); and".

Ante, p. 1404.

42 USC 1395n.

(2) (A) So much of section 1835(a) of such Act as precedes paragraph (1) is amended by striking out "subsections (b) and (c)," and inserting in lieu thereof "subsections (b), (c), and (e),".

(B) Section 1835 of such Act is further amended by adding at the end thereof the following new subsection:

Ante, p. 1404.

"(e) For purposes of services (1) which are inpatient hospital services by reason of paragraph (7) of section 1861(b) or for which entitlement exists by reason of clause (II) of section 1832(a)(2)(B) (i), and (2) for which the reasonable cost thereof is determined under section 1861(v)(1)(D), payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

*Supra.**Ante*, p. 1405.

“(1) such hospital has an agreement with the Secretary under section 1866, and

42 USC 1395cc.

“(2) the Secretary has received written assurances that such payment will be used by such fund solely for the improvement of care to patients in such hospital or for educational or charitable purposes and (B) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged provision will be made for return for any moneys incorrectly collected).”

(3) Section 1842(a) of such Act is amended by inserting after “which involve payments for physicians’ services” the following: “on a reasonable charge basis”.

42 USC 1395u.

(f) Section 1861(q) of such Act is amended by striking out the parenthetical phrase “(but not including services described in the last sentence of subsection (b))” and inserting in lieu thereof “(but not including services described in subsection (b)(6))”.

42 USC 1395x.

(g) The amendments made by this section shall apply with respect to accounting periods beginning after June 30, 1973.

Ante, p. 1404.

Effective date.

ADVANCE APPROVAL OF EXTENDED CARE AND HOME HEALTH COVERAGE UNDER MEDICARE

SEC. 228. (a) Section 1814 of the Social Security Act (as amended by section 227(b)(2) of this Act) is amended by adding at the end thereof the following new subsections:

Ante, p. 1405.

“Payment for Posthospital Extended Care Services

“(h) (1) An individual shall be presumed to require the care specified in subsection (a) (2) (C) of this section for purposes of making payment to an extended care facility (subject to the provisions of section 1812) for posthospital extended care services which are furnished by such facility to such individual if—

Post, p. 1425.

“(A) the certification referred to in subsection (a) (2) (C) of this section is submitted prior to or at the time of admission of such individual to such extended care facility,

“(B) such certification states that the medical condition of the individual is a condition designated in regulations,

“(C) such certification is accompanied by a plan of treatment for providing such services, and

“(D) there is compliance with such other requirements and procedures as may be specified in regulations,

but only for services furnished during such limited periods of time with respect to such conditions of the individual as may be prescribed in regulations by the Secretary, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum length of stay in an institution generally needed for such conditions, and such other factors affecting the type of care to be provided as the Secretary deems pertinent.

“(2) If the Secretary determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply, after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A), (B), or (C) of paragraph (1).

Erroneous certification, nonapplicability.

42 USC 1395d.

"Payment for Posthospital Home Health Services"

42 USC 1395f. " (i) (1) An individual shall be presumed to require the services specified in subsection (a) (2) (D) of this section for purposes of making payment to a home health agency (subject to the provisions of section 1812) for posthospital home health services furnished by such agency to such individual if—

42 USC 1395d. " (A) the certification and plan referred to in subsection (a) (2) (D) of this section are submitted in timely fashion prior to the first visit by such agency,

" (B) such certification states that the medical condition of the individual is a condition designated in regulations, and

" (C) there is compliance with such other requirements and procedures as may be specified in regulations, but only for services furnished during such limited numbers of visits with respect to such conditions of the individual as may be prescribed in regulations by the Secretary, taking into account the medical severity of such conditions, the degree of incapacity, and the minimum period of home confinement generally needed for such conditions, and such other factors affecting the type of care to be provided as the Secretary deems pertinent.

Erroneous certification, non-applicability.

" (2) If the Secretary determines with respect to a physician that such physician is submitting with some frequency (A) erroneous certifications that individuals have conditions designated in regulations as provided in this subsection or (B) plans for providing services which are inappropriate, the provisions of paragraph (1) shall not apply, after the effective date of such determination, in any case in which such physician submits a certification or plan referred to in subparagraph (A) or (B) of paragraph (1)."

Effective date.

(b) The amendment made by subsection (a) and any regulations adopted pursuant to such amendment shall apply with respect to plans of care initiated on or after January 1, 1973, and with respect to admission to skilled nursing facilities and home health plans initiated on or after such date.

AUTHORITY OF SECRETARY TO TERMINATE PAYMENTS TO SUPPLIERS OF SERVICES

Ante, p. 1382. SEC. 229. (a) Section 1862 of the Social Security Act (as amended by section 210 of this Act) is further amended by adding at the end thereof the following new subsection:

" (d) (1) No payment may be made under this title with respect to any item or services furnished to an individual by a person where the Secretary determines under this subsection that such person—

" (A) has knowingly and willfully made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this title or for use in determining the right to a payment under this title;

" (B) has submitted or caused to be submitted (except in the case of a provider of services), bills or requests for payment under this title containing charges (or in applicable cases requests for payment of costs to such person) for services rendered which the Secretary finds, with the concurrence of the appropriate program review team appointed pursuant to paragraph (4), to be substantially in excess of such person's customary charges (or in applicable cases substantially in excess of such person's costs) for such services, unless the Secretary finds there is good cause for such bills

Post, p. 1409.

or requests containing such charges (or in applicable cases, such costs); or

“(C) has furnished services or supplies which are determined by the Secretary, with the concurrence of the members of the appropriate program review team appointed pursuant to paragraph (4) who are physicians or other professional personnel in the health care field, to be substantially in excess of the needs of individuals or to be harmful to individuals or to be of a grossly inferior quality.

“(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, posthospital extended care services, and home health services such determination shall be effective in the manner provided in section 1866(b) (3) and (4) with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

“(3) Any person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

“(4) For the purposes of paragraph (1) (B) and (C) of this subsection, and clause (F) of section 1866(b)(2), the Secretary shall, after consultation with appropriate State and local professional societies, the appropriate carriers and intermediaries utilized in the administration of this title, and consumer representatives familiar with the health needs of residents of the State, appoint one or more program review teams (composed of physicians, other professional personnel in the health care field, and consumer representatives) in each State which shall, among other things—

“(A) undertake to review such statistical data on program utilization as may be submitted by the Secretary,

“(B) submit to the Secretary periodically, as may be prescribed in regulations, a report on the results of such review, together with recommendations with respect thereto,

“(C) undertake to review particular cases where there is a likelihood that the person or persons furnishing services and supplies to individuals may come within the provisions of paragraph (1) (B) and (C) of this subsection or clause (F) of section 1866(b)(2), and

“(D) submit to the Secretary periodically, as may be prescribed in regulations, a report of cases reviewed pursuant to subparagraph (C) along with an analysis of, and recommendations with respect to, such cases.”

(b) Section 1866(b)(2) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “, or (D) that such provider has made, or caused to be made, any false statement or representation of a material fact for use in an application for payment under this title or for use in determining the right to a payment under this title, or (E) that such provider has submitted, or caused to be submitted, requests for payment under this title of amounts for rendering services substantially in excess of the

Infra.

Determination,
effective date,
public notice.

Post, p. 1427.

Judicial review.

42 USC 405.

Program review
teams.
Infra.

Report to Secretary.

Report to Secretary.

42 USC 1395cc.

costs incurred by such provider for rendering such services, or (F) that such provider has furnished services or supplies which are determined by the Secretary, with the concurrence of the members of the appropriate program review team appointed pursuant to section 1862(d)(4) who are physicians or other professional personnel in the health care field, to be substantially in excess of the needs of individuals or to be harmful to individuals or to be of a grossly inferior quality."

Ante, p. 1408.

Ante, p. 1395.

(c) Section 1903(i) of such Act (as added by section 224(c) of this Act) is further amended by striking out "shall not be made" and all that follows and inserting in lieu thereof the following: "shall not be made—

"(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1842(b)(3); or

Ante, p. 1395;
Post, p. 1447.

"(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under title XVIII with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1862(d)(1) or under clause (D), (E), or (F) of section 1866(b)(2)."

42 USC 1395.

Ante, p. 1408.

Ante, p. 1409.

Ante, p. 1395.

(d) Section 506(f) of such Act (as added by section 224(d) of this Act) is further amended by striking out "no payment shall be made" and all that follows and inserting in lieu thereof the following: "no payment shall be made to any State thereunder—

"(1) with respect to any amount paid for items or services furnished under the plan after December 31, 1972, to the extent that such amount exceeds the charge which would be determined to be reasonable for such items or services under the fourth and fifth sentences of section 1842(b)(3); or

"(2) with respect to any amount paid for services furnished under the plan after December 31, 1972, by a provider or other person during any period of time, if payment may not be made under title XVIII with respect to services furnished by such provider or person during such period of time solely by reason of a determination by the Secretary under section 1862(d)(1) or under clause (D), (E), or (F) of section 1866(b)(2)."

ELIMINATION OF REQUIREMENT THAT STATES MOVE TOWARD COMPREHENSIVE MEDICAID PROGRAMS

Repeals.
42 USC 1396b.
42 USC 1396b
note.

SEC. 230. Section 1903(e) of the Social Security Act, and section 2(b) of Public Law 91-56 (approved August 9, 1969), are repealed.

REPEAL OF SECTION 1902(d) OF MEDICAID

42 USC 1396a.

SEC. 231. Section 1902(d) of the Social Security Act is repealed.

DETERMINATION OF REASONABLE COST OF INPATIENT HOSPITAL SERVICES UNDER MEDICAID AND UNDER MATERNAL AND CHILD HEALTH PROGRAM

81 Stat. 902.
42 USC 1396a.

SEC. 232. (a) Section 1902(a)(13)(D) of the Social Security Act is amended to read as follows:

"(D) for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in

accordance with methods and standards which shall be developed by the State and reviewed and approved by the Secretary and (after notice of approval by the Secretary) included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1861(v) as the reasonable cost of such services for purposes of title XVIII;”.

42 USC 1395x.

42 USC 1395.

42 USC 705.

(b) Section 505(a)(6) of such Act is amended to read as follows:

“(6) provides for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards which shall be developed by the State and included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1861(v) as the reasonable cost of such services for purposes of title XVIII;”.

(c) The amendments made by this section shall be effective July 1, 1972 (or earlier if the State plan so provides).

Effective date.

AMOUNT OF PAYMENTS WHERE CUSTOMARY CHARGES FOR SERVICES
FURNISHED ARE LESS THAN REASONABLE COST

SEC. 233. (a) Section 1814(b) of the Social Security Act is amended to read as follows:

79 Stat. 294.

42 USC 1395f.

“Amount Paid to Providers

“(b) The amount paid to any provider of services with respect to services for which payment may be made under this part shall, subject to the provisions of section 1813, be—

42 USC 1395e.

“(1) the lesser of (A) the reasonable cost of such services, as determined under section 1861(v), or (B) the customary charges with respect to such services; or

42 USC 1395x.

“(2) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such reasonable cost which the Secretary finds will provide fair compensation to such provider for such services.”

(b) Section 1833(a)(2) of such Act is amended to read as follows:

79 Stat. 302.

42 USC 1395f.

42 USC 1395k.

“(2) in the case of services described in section 1832(a)(2)—80 percent of—

“(A) the lesser of (i) the reasonable cost of such services, as determined under section 1861(v), or (ii) the customary charges with respect to such services; or

“(B) if such services are furnished by a public provider of services free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2).”

Supra.

(c) Section 1903(i) of such Act (as added by section 224(c) and amended by section 229(c) of this Act) is further amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; or”, and by adding after paragraph (2) the following new paragraph:

Ante, pp. 1395,
1410.

“(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital’s customary charges with respect to

such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services."

Ante, pp. 1395,
1410.

(d) Section 506(f) of such Act (as added by section 224(d) and amended by section 229(d) of this Act) is further amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and by adding after paragraph (2) the following new paragraph:

"(3) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services."

Ante, p. 1389.

(e) Clause (2) of the second sentence of section 509(a) of such Act (as amended by section 221(c) (3) of this Act) is further amended by inserting "(A)" before "the reasonable cost", and by inserting after "under the project," the following: "or (B) if less, the customary charges with respect to such services provided under the project, or (C) if such services are furnished under the project by a public institution free of charge or at nominal charges to the public, an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such reasonable cost which the Secretary finds will provide fair compensation to such institution for such services".

Effective
dates.

(f) The amendments made by subsections (a) and (b) shall apply to services furnished by hospitals, extended care facilities, and home health agencies in accounting periods beginning after December 31, 1972. The amendments made by subsections (c), (d), and (e) shall apply with respect to services furnished by hospitals in accounting periods beginning after December 31, 1972.

INSTITUTIONAL PLANNING UNDER MEDICARE

Ante, p. 1383.

SEC. 234. (a) The first sentence of section 1861(e) of the Social Security Act is amended—

- (1) by striking out "and" at the end of paragraph (7);
- (2) by redesignating paragraph (8) as paragraph (9); and
- (3) by inserting after paragraph (7) the following new paragraph:

"(8) has in effect an overall plan and budget that meets the requirements of subsection (z); and".

Post, p. 1413.

42 USC 1395x.

(b) Section 1861(f) (2) of such Act is amended to read as follows:

"(2) satisfies the requirements of paragraphs (3) through (9) of subsection (e);".

(c) Section 1861(g) (2) of such Act is amended to read as follows:

"(2) satisfies the requirements of paragraphs (3) through (9) of subsection (e);".

42 USC 1395x.

(d) The first sentence of section 1861(j) of such Act is amended—

- (1) by striking out "and" at the end of paragraph (9);
- (2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) has in effect an overall plan and budget that meets the requirements of subsection (z); and".

Infra.

(e) Section 1861(o) of such Act is amended—

42 USC 1395x.

(1) by striking out "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) has in effect an overall plan and budget that meets the requirements of subsection (z); and".

(f) Section 1861 of such Act is further amended by adding at the end thereof the following new subsection:

79 Stat. 313.
42 USC 1395x.

"Institutional Planning

"(z) An overall plan and budget of a hospital, extended care facility, or home health agency shall be considered sufficient if it—

"(1) provides for an annual operating budget which includes all anticipated income and expenses related to items which would, under generally accepted accounting principles, be considered income and expense items (except that nothing in this paragraph shall require that there be prepared, in connection with any budget, an item-by-item identification of the components of each type of anticipated expenditure or income);

"(2) provides for a capital expenditures plan for at least a 3-year period (including the year to which the operating budget described in subparagraph (1) is applicable) which includes and identifies in detail the anticipated sources of financing for, and the objectives of, each anticipated expenditure in excess of \$100,000 related to the acquisition of land, the improvement of land, buildings, and equipment, and the replacement, modernization, and expansion of the buildings and equipment which would, under generally accepted accounting principles, be considered capital items;

"(3) provides for review and updating at least annually; and

"(4) is prepared, under the direction of the governing body of the institution or agency, by a committee consisting of representatives of the governing body, the administrative staff, and the medical staff (if any) of the institution or agency."

(g) (1) Section 1814(a) (2) (C) and section 1814(a) (2) (D) of such Act are each amended by striking out "and (8)" and inserting in lieu thereof "and (9)".

42 USC 1395f.

(2) Section 1863 of such Act is amended by striking out "subsections (e) (8), (f) (4), (g) (4), (j) (10), and (o) (5)" and inserting in lieu thereof "subsections (e) (9), (f) (4), (g) (4), (j) (11), and (o) (6)".

42 USC 1395z.

(h) Section 1865 of such Act is amended—

42 USC 1395bb.

(1) by striking out "(except paragraph (6) thereof)" in the first sentence and inserting in lieu thereof "(except paragraphs (6) and (8) thereof)", and

(2) by striking out the second sentence and inserting in lieu thereof the following: "If such Commission, as a condition for accreditation of a hospital, (1) requires a utilization review plan as defined in section 1861(k) or imposes another requirement which serves substantially the same purpose, or (2) requires institutional plans as defined in section 1861(z) or imposes another requirement which serves substantially the same purpose, the

42 USC 1395x.

Supra.

Secretary is authorized to find that all institutions so accredited by the Commission comply also with section 1861(e)(6) or 1861(e)(8), as the case may be.”

42 USC 1395x.

Effective date.

(i) The amendments made by this section shall apply with respect to any provider of services for fiscal years (of such provider) beginning after the fifth month following the month in which this Act is enacted.

PAYMENTS TO STATES UNDER MEDICAID FOR INSTALLATION AND OPERATION OF CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

42 USC 1396b.

SEC. 235. (a) Section 1903(a) of the Social Security Act is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

“(3) an amount equal to—

“(A) (i) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized claims processing and information retrieval systems as the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of title XVIII, including the State’s share of the cost of installing such a system to be used jointly in the administration of such State’s plan and the plan of any other State approved under this title, and

42 USC 1395.

“(ii) 90 per centum of so much of the sums expended during any such quarter in the fiscal year ending June 30, 1972, or the fiscal year ending June 30, 1973, as are attributable to the design, development, or installation of cost determination systems for State-owned general hospitals (except that the total amount paid to all States under this clause for either such fiscal year shall not exceed \$150,000), and

“(B) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual who is furnished services covered by the plan of the specific services so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services; plus”.

Effective date.

(b) The amendments made by subsection (a) shall apply with respect to expenditures under State plans approved under title XIX of the Social Security Act made after June 30, 1971.

42 USC 1396.

PROHIBITION AGAINST REASSIGNMENT OF CLAIMS TO BENEFITS

42 USC 1395u.

SEC. 236. (a) Section 1842(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

42 USC 1395gg.

“(5) No payment under this part for a service provided to any individual shall (except as provided in section 1870) be made to anyone other than such individual or (pursuant to an assignment

described in subparagraph (B) (ii) of paragraph (3)) the physician or other person who provided the service, except that payment may be made (A) to the employer of such physician or other person if such physician or other person is required as a condition of his employment to turn over his fee for such service to his employer, or (B) (where the service was provided in a hospital, clinic, or other facility) to the facility in which the service was provided if there is a contractual arrangement between such physician or other person and such facility under which such facility submits the bill for such service."

Ante, p. 1384;
Post, p. 1455.

(b) Section 1902(a) of such Act is amended—

42 USC 1396a.

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (31) the following new paragraph:

"(32) provide that no payment under the plan for any care or service provided to an individual by a physician, dentist, or other individual practitioner shall be made to anyone other than such individual or such physician, dentist, or practitioner, except that payment may be made (A) to the employer of such physician, dentist, or practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (B) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service."

(c) The amendment made by subsection (a) shall apply with respect to bills submitted and requests for payments made after the date of the enactment of this Act. The amendments made by subsection (b) shall be effective January 1, 1973 (or earlier if the State plan so provides).

Effective dates.

UTILIZATION REVIEW REQUIREMENTS FOR HOSPITALS AND SKILLED NURSING HOMES UNDER MEDICAID AND UNDER MATERNAL AND CHILD HEALTH PROGRAM

SEC. 237. (a) (1) Section 1903(i) of the Social Security Act (as added by section 224(c) and amended by sections 229(c) and 233(c) of this Act) is further amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding after paragraph (3) the following new paragraph:

Ante, pp. 1395,
1410, 1411.

"(4) with respect to any amount expended for care or services furnished under the plan by a hospital or skilled nursing home unless such hospital or skilled nursing home has in effect a utilization review plan which meets the requirements imposed by section 1861(k) for purposes of title XVIII; and if such hospital or skilled nursing home has in effect such a utilization review plan for purposes of title XVIII, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this title; the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k)."

42 USC 1395x,
1395.

42 USC 1396a.

(2) Section 1902(a)(30) of such Act is amended by inserting “(including but not limited to utilization review plans as provided for in section 1903(i)(4))” after “plan” where it first appears.

Ante, pp. 1395,
1410, 1412.

(b) Section 506(f) of such Act (as added by section 224(d) and amended by sections 229(d) and 233(d) of this Act) is further amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; or”, and by adding after paragraph (3) the following new paragraph:

“(4) with respect to any amount expended for services furnished under the plan by a hospital unless such hospital has in effect a utilization review plan which meets the requirement imposed by section 1861(k) for purposes of title XVIII; and if such hospital has in effect such a utilization review plan for purposes of title XVIII, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this title; the Secretary is authorized to waive the requirements of this paragraph in any State if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k).”

42 USC 1395x,
1395.

42 USC 1395x.

42 USC 1396.

(c) Section 1861(k) of such Act is amended by adding at the end thereof the following new sentence: “If the Secretary determines that the utilization review procedures established pursuant to title XIX are superior in their effectiveness to the procedures required under this section, he may, to the extent that he deems it appropriate, require for purposes of this title that the procedures established pursuant to title XIX be utilized instead of the procedures required by this section.”

Effective dates.

(d) (1) The amendments made by subsections (a)(1) and (b) shall apply with respect to services furnished in calendar quarters beginning after June 30, 1973.

(2) The amendment made by subsection (a)(2) shall be effective July 1, 1973.

NOTIFICATION OF UNNECESSARY ADMISSION TO A HOSPITAL OR EXTENDED CARE FACILITY UNDER MEDICARE

42 USC 1395f.

SEC. 238. (a) Section 1814(a)(7) of the Social Security Act is amended by striking out “as described in section 1861(k)(4)” and inserting in lieu thereof “as described in section 1861(k)(4), including any finding made in the course of a sample or other review of admissions to the institution”.

Effective date.

(b) The amendment made by subsection (a) shall apply with respect to services furnished after the second month following the month in which this Act is enacted.

USE OF STATE HEALTH AGENCY TO PERFORM CERTAIN FUNCTIONS UNDER MEDICAID AND UNDER MATERNAL AND CHILD HEALTH PROGRAM

42 USC 1396a.

SEC. 239. (a) Section 1902(a)(9) of the Social Security Act is amended to read as follows:

“(9) provide—

“(A) that the State health agency, or other appropriate State medical agency (whichever is utilized by the Secretary for the purpose specified in the first sentence of section 1864(a)), shall be responsible for establishing and maintaining health standards for private or public institutions in which

42 USC 1395aa.

recipients of medical assistance under the plan may receive care or services, and

“(B) for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards, other than those relating to health, for such institutions;”.

(b) Section 1902(a) of such Act (as amended by section 236(b) of this Act) is further amended—

Ante, p. 1415.

(1) by striking out “and” at the end of paragraph (31);

(2) by striking out the period at the end of paragraph (32) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (32) the following new paragraph:

“(33) provide—

“(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5) and, where applicable, to the State agency described in the last sentence of this subsection; and

“(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this title the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan.”

42 USC 1395aa.

(c) Section 505(a) of such Act is amended—

(1) by striking out “and” at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof “; and”; and

(3) by adding after paragraph (14) the following new paragraph:

“(15) provides—

“(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of services under the plan and, where applicable, for providing guidance with respect thereto to the other State agency referred to in paragraph (2); and

“(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform the function of determining whether institutions and agencies meet the requirements for participation in the program under the plan under this title.”

81 Stat. 923.
42 USC 705.

42 USC 1395aa.

Effective date. (d) The amendments made by this section shall be effective January 1, 1973 (or earlier if the State plan so provides).

RELATIONSHIP BETWEEN MEDICAID AND COMPREHENSIVE HEALTH
CARE PROGRAMS

81 Stat. 903.
42 USC 1396a.

SEC. 240. Section 1902(a)(23) of the Social Security Act is amended by adding after the semicolon at the end thereof the following: "and a State plan shall not be deemed to be out of compliance with the requirements of this paragraph or paragraph (1) or (10) solely by reason of the fact that the State (or any political subdivision thereof) has entered into a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization;"

PROGRAM FOR DETERMINING QUALIFICATIONS FOR CERTAIN HEALTH
CARE PERSONNEL

Ante, p. 1386.

SEC. 241. Title XI of the Social Security Act is amended by adding after section 1122 (as added by section 221(a) of this Act) the following new section:

"PROGRAM FOR DETERMINING QUALIFICATIONS FOR CERTAIN HEALTH CARE
PERSONNEL

42 USC 1395.

"SEC. 1123. (a) The Secretary, in carrying out his functions relating to the qualifications for health care personnel under title XVIII, shall develop (in consultation with appropriate professional health organizations and State health and licensure agencies) and conduct (in conjunction with State health and licensure agencies) until December 31, 1977, a program designed to determine the proficiency of individuals (who do not otherwise meet the formal educational, professional membership, or other specific criteria established for determining the qualifications of practical nurses, therapists, laboratory technicians, and technologists, and cytotechnologists, X-ray technicians, psychiatric technicians, or other health care technicians and technologists) to perform the duties and functions of practical nurses, therapists, laboratory technicians, technologists, and cytotechnologists, X-ray technicians, psychiatric technicians, or other health care technicians and technologists. Such program shall include (but not be limited to) the employment of procedures for the formal testing of the proficiency of individuals. In the conduct of such program, no individual who otherwise meets the proficiency requirements for any health care specialty shall be denied a satisfactory proficiency rating solely because of his failure to meet formal educational or professional membership requirements.

42 USC 1396.

"(b) If any individual has been determined, under the program established pursuant to subsection (a), to be qualified to perform the duties and functions of any health care specialty, no person or provider utilizing the services of such individual to perform such duties and functions shall be denied payment, under title XVIII or under any State plan approved under title XIX, for any health care services provided by such person on the grounds that such individual is not qualified to perform such duties and functions."

PENALTIES FOR FRAUDULENT ACTS AND FALSE REPORTING UNDER
MEDICARE AND MEDICAID

SEC. 242. (a) Section 1872 of the Social Security Act is amended by striking out "208,".

42 USC 139511.

(b) Title XVIII of the Social Security Act is amended by adding at the end thereof (after the new section added by section 226(a) of this Act) the following new section:

Ante, p. 1396.

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

"(b) Whoever furnishes items or services to an individual for which payment is or may be made under this title and who solicits, offers, or receives any—

"(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

"(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1861), shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$2,000 or imprisoned for not more than 6 months, or both."

42 USC 1395x.

(c) Title XIX of such Act is amended by adding after section 1908 the following new section:

42 USC 1396.

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

"(b) Whoever furnishes items or services to an individual for which payment is or may be made in whole or in part out of Federal funds under a State plan approved under this title and who solicits, offers, or receives any—

"(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

"(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing home, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$2,000 or imprisoned for not more than 6 months, or both."

(d) The provisions of amendments made by this section shall not be applicable to any acts, statements, or representations made or committed prior to the enactment of this Act.

PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 243. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof (after the new sections added by section 226(a) and section 242(b) of this Act) the following new section:

"PROVIDER REIMBURSEMENT REVIEW BOARD

"SEC. 1878. (a) Any provider of services which has filed a required cost report within the time specified in regulations may obtain a hearing with respect to such cost report by a Provider Reimbursement Review Board (hereinafter referred to as the 'Board') which shall be established by the Secretary in accordance with subsection (h), if—

"(1) such provider—

"(A) is dissatisfied with a final determination of the organization serving as its fiscal intermediary pursuant to section 1816 as to the amount of total program reimbursement due the provider for the items and services furnished to individuals for which payment may be made under this title for the period covered by such report,

"(B) has not received such final determination from such intermediary on a timely basis after filing such report, where such report complied with the rules and regulations of the Secretary relating to such report, or

"(C) has not received such final determination on a timely basis after filing a supplementary cost report, where such cost report did not so comply and such supplementary cost report did so comply,

"(2) the amount in controversy is \$10,000 or more, and

"(3) such provider files a request for a hearing within 180 days after notice of the intermediary's final determination under paragraph (1) (A) or with respect to appeals pursuant to paragraph (1) (B) or (C), within 180 days after notice of such determination would have been received if such determination had been made on a timely basis.

"(b) The provisions of subsection (a) shall apply to any group of providers of services if each provider of services in such group would, upon the filing of an appeal (but without regard to the \$10,000 limitation), be entitled to such a hearing, but only if the matters in controversy involve a common question of fact or interpretation of law or regulations and the amount in controversy is, in the aggregate, \$50,000 or more.

"(c) At such hearing, the provider of services shall have the right to be represented by counsel, to introduce evidence, and to examine and cross-examine witnesses. Evidence may be received at any such hearing even though inadmissible under rules of evidence applicable to court procedure.

"(d) A decision by the Board shall be based upon the record made at such hearing, which shall include the evidence considered by the intermediary and such other evidence as may be obtained or received by the Board, and shall be supported by substantial evidence when the record is viewed as a whole. The Board shall have the power to affirm, modify, or reverse a final determination of the fiscal intermediary with respect to a cost report and to make any other revisions on matters covered by such cost report (including revisions adverse to the provider of services) even though such matters were not considered by the intermediary in making such final determination.

"(e) The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this title or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this section. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d), (e), and (f) of section 205 with respect to subpenas

Establishment.

Conditions.

42 USC 1395h.

Group appeal.

Rules and regulations.

42 USC 405.

shall apply to the Board to the same extent as they apply to the Secretary with respect to title II.

42 USC 401.
Board decision,
reviewability.

“(f) A decision of the Board shall be final unless the Secretary, on his own motion, and within 60 days after the provider of services is notified of the Board’s decision, reverses or modifies (adversely to such provider) the Board’s decision. In any case where such a reversal or modification occurs the provider of services may obtain a review of such decision by a civil action commenced within 60 days of the date he is notified of the Secretary’s reversal or modification. Such action shall be brought in the district court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 7 of title 5, United States Code, notwithstanding any other provisions in section 205.

5 USC 701.
42 USC 405.

“(g) The finding of a fiscal intermediary that no payment may be made under this title for any expenses incurred for items or services furnished to an individual because such items or services are listed in section 1862 shall not be reviewed by the Board, or by any court pursuant to an action brought under subsection (f).

42 USC 1395y.
Membership.

“(h) The Board shall be composed of five members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive services. Two of such members shall be representative of providers of services. All of the members of the Board shall be persons knowledgeable in the field of cost reimbursement, and at least one of them shall be a certified public accountant. Members of the Board shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate specified (at the time the service involved is rendered by such members) for grade GS-18 in section 5332 of title 5, United States Code. The term of office shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

5 USC 101 et
seq.

Compensation.

5 USC 5332
note.

Technical and
clerical assist-
ance.

“(i) The Board is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions.”

42 USC 1395h.

(b) The first sentence of section 1816(a) of such Act is amended by striking out “subject to” in the parenthetical phrase and inserting in lieu thereof “subject to the provisions of section 1878 and to”.

Effective date.

(c) The amendments made by this section shall apply with respect to cost reports of providers of services, as defined in title XVIII of the Social Security Act, for accounting periods ending on or after June 30, 1973.

42 USC 1395.

VALIDATION OF SURVEYS MADE BY JOINT COMMISSION ON THE ACCREDITATION OF HOSPITALS

79 Stat. 326.
42 USC 1395aa.

SEC. 244. (a) Section 1864 of the Social Security Act is amended by inserting at the end thereof the following new subsection:

“(c) The Secretary is authorized to enter into an agreement with any State under which the appropriate State or local agency which performs the certification function described in subsection (a) will survey, on a selective sample basis (or where the Secretary finds that a survey is appropriate because of substantial allegations of the existence of a significant deficiency or deficiencies which would, if found to be present, adversely affect health and safety of patients), hospitals which have an agreement with the Secretary under section 1866 and which are accredited by the Joint Commission on the Accreditation of

42 USC 1395cc.

Hospitals. The Secretary shall pay for such services in the manner prescribed in subsection (b)."

(b) (1) Section 1865 of such Act, as amended by section 234 of this Act, is further amended by striking out "SEC. 1865" and the first two sentences of such section and inserting in lieu thereof the following:

"SEC. 1865. (a) Except as provided in subsection (b) and the second sentence of section 1863, if—

"(1) an institution is accredited as a hospital by the Joint Commission on Accreditation of Hospitals, and

"(2) such institution (if it is included within a survey described in section 1864(c)) authorizes the Commission to release to the Secretary (on a confidential basis) upon his request (or such State agency as the Secretary may designate) a copy of the most current accreditation survey of such institution made by such Commission,

then, such institution shall be deemed to meet the requirements of the numbered paragraphs of section 1861(e); except—

"(3) paragraph (6) thereof, and

"(4) any standard, promulgated by the Secretary pursuant to paragraph (9) thereof, which is higher than the requirements prescribed for accreditation by such Commission.

If such Commission, as a condition for accreditation of a hospital, requires a utilization review plan (or imposes another requirement which serves substantially the same purpose) or imposes a standard which the Secretary determines is at least equivalent to the standard promulgated by the Secretary as described in paragraph (4) of this subsection, the Secretary is authorized to find that all institutions so accredited by such Commission comply also with section 1861(e)(6) or the standard described in such paragraph (4), as the case may be."

(2) Such section 1865 (as so amended) is further amended by adding after subsection (a) thereof the following:

"(b) Notwithstanding any other provision of this title, if the Secretary finds following a survey made pursuant to section 1864(c) that an institution has significant deficiencies (as defined in regulations pertaining to health and safety), such institution shall, after the date of notice of such finding to the hospital and for such period as may be prescribed in regulations, be deemed not to meet the requirements of the numbered paragraphs of section 1861(e)."

(c) Section 1861(e) of such Act, as amended by sections 211 and 234 of this Act, is further amended by striking out, in subsection (9), everything after the word "institution" and inserting in lieu thereof a period.

(d) Section 1875(b) of such Act, as amended by sections 222 and 226 of this Act, is further amended by inserting, after "including" and before "the operation", the following: "a validation of the accreditation process of the Joint Commission on the Accreditation of Hospitals."

Ante, p. 1413.

42 USC 1395z.

Ante, p. 1422.

42 USC 1395x.

Ante, p. 1422.

Ante, pp. 1383, 1412.

Ante, pp. 1393, 1404.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT UNDER MEDICARE

SEC. 245. (a) The Secretary is authorized to conduct reimbursement experiments designed to eliminate unreasonable expenses resulting from prolonged rentals of durable medical equipment described in section 1861(s)(6) of the Social Security Act.

(b) Such experiment may be conducted in one or more geographic areas, as the Secretary deems appropriate, and may, pursuant to agreements with suppliers, provide for reimbursement for such equipment on a lump-sum basis whenever it is determined (in accordance

42 USC 1395x.

79 Stat. 302.
42 USC 1395l.

with guidelines established by the Secretary) that a lump-sum payment would be more economical than the anticipated period of rental payments. Such experiments may also provide for incentives to beneficiaries (including waiver of the 20 percent coinsurance amount applicable under section 1833 of the Social Security Act) to purchase used equipment whenever the purchase price is at least 25 percent less than the reasonable charge for new equipment.

81 Stat. 850.

(c) The Secretary is authorized, at such time as he deems appropriate, to implement on a nationwide basis any such reimbursement procedures which he finds to be workable, desirable and economical and which are consistent with the purposes of this section.

(d) Section 1833(f) of the Social Security Act is amended—

(1) by striking out “with respect to purchases of inexpensive equipment (as determined by the Secretary)” and inserting in lieu thereof “(A)”, and

(2) by inserting before the period at the end thereof the following: “, and (B) with respect to purchases of used equipment the Secretary is authorized to waive the 20 percent coinsurance amount applicable under subsection (a) whenever the purchase price of such equipment is at least 25 percent less than the reasonable charge for comparable new equipment.”

(3) by inserting “(1)” after “(f)” and by adding after paragraph (1) the following new paragraph:

“(2) In the case of rental of durable medical equipment, the Secretary may, pursuant to agreements made with suppliers of such equipment, establish any reimbursement procedures (including payment on a lump-sum basis in lieu of prolonged rental payments) which he finds to be equitable, economical, and feasible.”

UNIFORM STANDARDS FOR SKILLED NURSING FACILITIES UNDER MEDICARE AND MEDICAID

42 USC 1396a.

SEC. 246. (a) Section 1902(a)(28) of the Social Security Act is amended to read as follows:

“(28) provide that any skilled nursing facility receiving payments under such plan must satisfy all of the requirements contained in section 1861(j), except that the exclusion contained therein with respect to institutions which are primarily for the care and treatment of mental diseases and tuberculosis shall not apply for purposes of this title;”

Ante, p. 1412.

(b) Section 1861(j) of such Act, as amended by section 234(d) of this Act, is further amended—

(1) by striking out “and” at the end of paragraph (10);

(2) by redesignating paragraph (11) as paragraph (15);

(3) by inserting after paragraph (10) the following new paragraphs:

“(11) supplies full and complete information to the Secretary or his delegate as to the identity (A) of each person who has any direct or indirect ownership interest of 10 per centum or more in such skilled nursing facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such skilled nursing facility or any of the property or assets of such skilled nursing facility, (B) in case a skilled nursing facility is organized as a corporation, of each officer and director of the corporation, and (C) in case a skilled nursing facility is organized as a partnership, of each partner; and promptly reports any changes which would affect the current accuracy of the information so required to be supplied;

"(12) cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the facility to the extent required by the programs in which the facility participates (including medical evaluation of each patient's need for skilled nursing facility care);

"(13) meets such provisions of the Life Safety Code of the National Fire Protection Association (21st edition, 1967) as are applicable to nursing homes; except that the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a nursing home, but only if such waiver will not adversely affect the health and safety of the patients; except that the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing facilities; and" and

(4) by adding at the end of paragraph (15) (as redesignated by paragraph (2) of this subsection) the following new sentence: "Notwithstanding any other provision of law, all information concerning skilled nursing facilities required by this subsection to be filed with the Secretary shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under titles XVIII and XIX of this Act."

(c) The amendments made by this section shall be effective July 1, 1973.

42 USC 1395,
1396.
Effective date.

LEVEL OF CARE REQUIREMENTS FOR SKILLED NURSING HOME SERVICES

SEC. 247. (a) Section 1814(a)(2)(C) of the Social Security Act is amended by striking out everything which appears before "(or services)" and inserting in lieu thereof the following:

42 USC 1395f.

"(C) in the case of post hospital extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for any of the conditions with respect to which he was receiving inpatient hospital services".

(b) Section 1905 of the Social Security Act, as amended by section 212 of this Act, is further amended by adding at the end thereof the following new subsection:

Ante, p. 1384.

"(f) For purposes of this title, the term 'skilled nursing facility services' means services which are or were required to be given an individual who needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis."

"Skilled nursing facility services."

(c) The amendments made by this section shall be effective with respect to services furnished after December 31, 1972.

Effective date.

MODIFICATION OF MEDICARE'S 14-DAY TRANSFER REQUIREMENT FOR EXTENDED CARE BENEFITS

SEC. 248. Section 1861(i) of the Social Security Act is amended by striking out "within 14 days after discharge from such hospital;" and inserting in lieu thereof the following: "(A) within 14 days

42 USC 1395x.

after discharge from such hospital, or (B) within 28 days after such discharge, in the case of an individual who was unable to be admitted to a skilled nursing facility within such 14 days because of a shortage of appropriate bed space in the geographic area in which he resides, or (C) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing facility care would not be medically appropriate within 14 days after discharge from a hospital;”

REIMBURSEMENT RATES FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

Ante, p. 1410. SEC. 249. (a) Section 1902(a)(13) of the Social Security Act, as amended by section 221(c)(5) of this Act, is further amended—

- (1) by inserting “and” at the end of subparagraph (D), and
- (2) by inserting after subparagraph (D) the following new paragraph:

“(E) effective July 1, 1976, for payment of the skilled nursing facility and intermediate care facility services provided under the plan on a reasonable cost related basis, as determined in accordance with methods and standards which shall be developed by the State on the basis of cost-finding methods approved and verified by the Secretary;”.

Ante, p. 1405. (b) Section 1861(v)(1) of such Act, as amended by sections 223 and 227 of this Act, is further amended by inserting after subparagraph (D) the following new subparagraph:

“(E) Such regulations may, in the case of skilled nursing facilities in any State, provide for the uses of rates, developed by the State in which such facilities are located, for the payment of the cost of skilled nursing facility services furnished under the State’s plan approved under title XIX (and such rates may be increased by the Secretary on a class or size of institution or on a geographical basis by a percentage factor not in excess of 10 percent to take into account determinable items or services or other requirements under this title not otherwise included in the computation of such State rates), if the Secretary finds that such rates are reasonably related to (but not necessarily limited to) analyses undertaken by such State of costs of care in comparable facilities in such State; except that the foregoing provisions of this subparagraph shall not apply to any skilled nursing facility in such State if—

“(i) such facility is a distinct part of or directly operated by a hospital, or

“(ii) such facility operates in a close, formal satellite relationship (as defined in regulations of the Secretary) with a participating hospital or hospitals.

Notwithstanding the previous provisions of this paragraph in the case of a facility specified in clause (ii) of this subparagraph, the reasonable cost of any services furnished by such facility as determined by the Secretary under this subsection shall not exceed 150 percent of the costs determined by the application of this subparagraph (without regard to such clause (ii)).”.

MEDICAID CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES

Ante, p. 1420. SEC. 249A. (a) Title XIX of the Social Security Act is amended by adding at the end thereof (after the new section 1909 added by this Act) the following new section:

"CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES

"SEC. 1910. (a) Whenever the Secretary certifies an institution in a State to be qualified as a skilled nursing facility under title XVIII, such institution shall be deemed to meet the standards for certification as a skilled nursing facility for purposes of section 1902(a) (28).

42 USC 1395.

Ante, p. 1424.

Notification.

"(b) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any institution which has applied for certification by him as a qualified skilled nursing facility."

(b) Section 1866(a) (1) of the Social Security Act is amended by adding at the end thereof the following sentence: "An agreement under this paragraph with an extended care facility shall be for a term of not exceeding 12 months, except that the Secretary may extend such term for a period not exceeding 2 months, where the health and safety of patients will not be jeopardized thereby, if he finds that such extension is necessary to prevent irreparable harm to such facility or hardship to the individuals being furnished items or services by such facility or if he finds it impracticable within such 12-month period to determine whether such facility is complying with the provisions of this title and regulations thereunder."

42 USC 1395cc.

(c) Section 1866(b) of such Act is amended by—

(1) striking out, in the material which precedes clause (1), "terminated." and inserting in lieu thereof "terminated (and in the case of an extended care facility, prior to the end of the term specified in subsection (a) (1))."; and

(2) by striking out all of clause (3) appearing after the phrase "Any termination shall be applicable—" and inserting in lieu thereof the following:

"(3) in the case of inpatient hospital services (including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to the effective date of such termination."

(d) Section 1866(c) of such Act is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) In the case of a skilled nursing facility participating in the programs established by this title and title XIX, the Secretary may enter into an agreement under this section only if such facility has been approved pursuant to section 1910, and the term of any such agreement shall be in accordance with the period of approval of eligibility specified by the Secretary pursuant to such section."

42 USC 1395,
1396.

(e) The provisions of this section shall be effective with respect to agreements filed with the Secretary under section 1866 of the Social Security Act by skilled nursing facilities (as defined in section 1861(j) of such Act) before, on, or after the date of enactment of this Act, but accepted by him on or after such date.

Effective date.

42 USC 1395x.

(f) Notwithstanding any other provision of law, any agreement, filed by a skilled nursing facility (as defined in section 1861(j) of the Social Security Act) with the Secretary under section 1866 of such Act and accepted by him prior to the date of enactment of this Act, which was in effect on such date shall be deemed to be for a specified term ending on December 31, 1973.

Termination
date.

PAYMENTS TO STATES UNDER MEDICAID FOR COMPENSATION OF INSPECTORS
RESPONSIBLE FOR MAINTAINING COMPLIANCE WITH FEDERAL STANDARDS

Ante, pp. 1380,
1414.
Effective pe-
riod.

SEC. 249B. Section 1903(a) of the Social Security Act, as amended by sections 207(a)(2) and 235(a) of this Act, is further amended, effective for the period beginning October 1, 1972, and ending June 30, 1974, by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

“(4) an amount equal to 100 per centum of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) which are attributable to compensation or training of personnel (of the State agency or any other public agency) responsible for inspecting public or private institutions (or portions thereof) providing long-term care to recipients of medical assistance to determine whether such institutions comply with health or safety standards applicable to such institutions under this Act; plus”.

DISCLOSURE OF INFORMATION CONCERNING THE PERFORMANCE OF CARRIERS,
INTERMEDIARIES, STATE AGENCIES, AND PROVIDERS OF SERVICES UNDER
MEDICARE AND MEDICAID

42 USC 1306.

SEC. 249C. (a) Section 1106 of the Social Security Act is amended by adding at the end thereof the following new subsections:

42 USC 1396.

“(d) Notwithstanding any other provision of this section the Secretary shall make available to each State agency operating a program under title XIX and shall, subject to the limitations contained in subsection (e), make available for public inspection in readily accessible form and fashion, the following official reports (not including, however, references to any internal tolerance rules and practices that may be contained therein, internal working papers or other informal memoranda) dealing with the operation of the health programs established by titles XVIII and XIX—

42 USC 1395,
1396.

“(1) individual contractor performance reviews and other formal evaluations of the performance of carriers, intermediaries, and State agencies, including the reports of follow-up reviews;

“(2) comparative evaluations of the performance of such contractors, including comparisons of either overall performance or of any particular aspect of contractor operation; and

“(3) program validation survey reports and other formal evaluations of the performance of providers of services, including the reports of follow-up reviews, except that such reports shall not identify individual patients, individual health care practitioners, or other individuals.

Contractor, re-
port review.

“(e) No report described in subsection (d) shall be made public by the Secretary or the State title XIX agency until the contractor or provider of services whose performance is being evaluated has had a reasonable opportunity (not exceeding 60 days) to review such report and to offer comments pertinent parts of which may be incorporated in the public report; nor shall the Secretary be required to include in any such report information with respect to any deficiency (or improper practice or procedures) which is known by the Secretary to have been fully corrected, within 60 days of the date such deficiency was first brought to the attention of such contractor or provider of services, as the case may be.”

Effective date.

(b) The provisions of subsection (a) shall apply with respect to reports which are completed by the Secretary after the third calendar month following the enactment of this Act.

LIMITATION ON INSTITUTIONAL CARE

SEC. 249D. Section 121(b) of the Social Security Amendments of 1965 is amended by adding at the end thereof the following new sentence: "After the date of enactment of the Social Security Amendments of 1972, Federal matching shall not be available for any portion of any payment by any State under title I, X, XIV, or XVI, or part A of title IV, of the Social Security Act for or on account of any medical or any other type of remedial care provided by an institution to any individual as an inpatient thereof, in the case of any State which has a plan approved under title XIX of such Act, if such care is (or could be) provided under a State plan approved under title XIX of such Act by an institution certified under such title XIX."

79 Stat. 352.
42 USC 1396b
note.

42 USC 301,
1201, 1351, 1381,
601.

42 USC 1396.

DETERMINING ELIGIBILITY FOR ASSISTANCE UNDER TITLE XIX FOR CERTAIN INDIVIDUALS

SEC. 249E. For purposes of section 1902(a) (10) of the Social Security Act any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV of such Act and who for such month was entitled to monthly insurance benefits under title II of such Act shall be deemed to be eligible for such aid or assistance for any month thereafter prior to October 1974 if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under title II of such Act resulting from enactment of Public Law 92-336 not been applicable to such individual.

42 USC 1396a.

42 USC 401.

Ante, p. 406.

PROFESSIONAL STANDARDS REVIEW

SEC. 249F. (a) The heading to title XI of the Social Security Act is amended by striking out

42 USC 1301.

"TITLE XI—GENERAL PROVISIONS"

and inserting in lieu thereof

"TITLE XI—GENERAL PROVISIONS AND
PROFESSIONAL STANDARDS REVIEW"

"PART A—GENERAL PROVISIONS"

(b) Title XI of such Act is further amended by adding the following:

Ante, p. 945.

"PART B—PROFESSIONAL STANDARDS REVIEW"

"DECLARATION OF PURPOSE"

"SEC. 1151. In order to promote the effective, efficient, and economical delivery of health care services of proper quality for which payment may be made (in whole or in part) under this Act and in recognition of the interests of patients, the public, practitioners, and providers in improved health care services, it is the purpose of this part to assure, through the application of suitable procedures of professional standards review, that the services for which payment may be made under the Social Security Act will conform to appropriate professional standards for the provision of health care and that payment for such services will be made—

"(1) only when, and to the extent, medically necessary, as determined in the exercise of reasonable limits of professional discretion; and

"(2) in the case of services provided by a hospital or other health care facility on an inpatient basis, only when and for such period as such services cannot, consistent with professionally recognized health care standards, effectively be provided on an outpatient basis or more economically in an inpatient health care facility of a different type, as determined in the exercise of reasonable limits of professional discretion.

"DESIGNATION OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"SEC. 1152. (a) The Secretary shall (1) not later than January 1, 1974, establish throughout the United States appropriate areas with respect to which Professional Standards Review Organizations may be designated, and (2) at the earliest practicable date after designation of an area enter into an agreement with a qualified organization whereby such an organization shall be conditionally designated as the Professional Standards Review Organization for such area. If, on the basis of its performance during such period of conditional designation, the Secretary determines that such organization is capable of fulfilling, in a satisfactory manner, the obligations and requirements for a Professional Standards Review Organization under this part, he shall enter into an agreement with such organization designating it as the Professional Standards Review Organization for such area.

"Qualified organization."

"(b) For purposes of subsection (a), the term 'qualified organization' means—

"(1) when used in connection with any area—

"(A) an organization (i) which is a nonprofit professional association (or a component organization thereof), (ii) which is composed of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area, (iii) the membership of which includes a substantial proportion of all such physicians in such area, (iv) which is organized in a manner which makes available professional competence to review health care services of the types and kinds with respect to which Professional Standards Review Organizations have review responsibilities under this part, (v) the membership of which is voluntary and open to all doctors of medicine or osteopathy licensed to engage in the practice of medicine or surgery in such area without requirement of membership in or payment of dues to any organized medical society or association, and (vi) which does not restrict the eligibility of any member for service as an officer of the Professional Standards Review Organization or eligibility for and assignment to duties of such Professional Standards Review Organization, or, subject to subsection (c) (i),

"(B) such other public, nonprofit private, or other agency or organization, which the Secretary determines, in accordance with criteria prescribed by him in regulations, to be of professional competence and otherwise suitable; and

"(2) an organization which the Secretary, on the basis of his examination and evaluation of a formal plan submitted to him by the association, agency, or organization (as well as on the basis of other relevant data and information), finds to be willing to perform and capable of performing, in an effective, timely, and objective manner and at reasonable cost, the duties, functions, and

activities of a Professional Standards Review Organization required by or pursuant to this part.

"(c) (1) The Secretary shall not enter into any agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b) (1) (A) prior to January 1, 1976, nor after such date, unless, in such area, there is no organization referred to in subsection (b) (1) (A) which meets the conditions specified in subsection (b) (2).

"(2) Whenever the Secretary shall have entered into an agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b) (1) (A), he shall not renew such agreements with such organization if he determines that—

"(A) there is in such area an organization referred to in subsection (b) (1) (A) which (i) has not been previously designated as a Professional Standards Review Organization, and (ii) is willing to enter into an agreement under this part under which such organization would be designated as the Professional Standards Review Organization for such area;

"(B) such organization meets the conditions specified in subsection (b) (2); and

"(C) the designation of such organization as the Professional Standards Review Organization for such area is anticipated to result in substantial improvement in the performance in such area of the duties and functions required of such organizations under this part.

"(d) Any such agreement under this part with an organization (other than an agreement established pursuant to section 1154) shall be for a term of 12 months; except that, prior to the expiration of such term such agreement may be terminated—

Agreement expiration; prior termination.
Post, p. 1432.

"(1) by the organization at such time and upon such notice to the Secretary as may be prescribed in regulations (except that notice of more than 3 months may not be required); or

"(2) by the Secretary at such time and upon such reasonable notice to the organization as may be prescribed in regulations, but only after the Secretary has determined (after providing such organization with an opportunity for a formal hearing on the matter) that such organization is not substantially complying with or effectively carrying out the provisions of such agreement.

"(e) In order to avoid duplication of functions and unnecessary review and control activities, the Secretary is authorized to waive any or all of the review, certification, or similar activities otherwise required under or pursuant to any provision of this Act (other than this part) where he finds, on the basis of substantial evidence of the effective performance of review and control activities by Professional Standards Review Organizations, that the review, certification, and similar activities otherwise so required are not needed for the provision of adequate review and control.

Waiver.

"(f) (1) In the case of agreements entered into prior to January 1, 1976, under this part under which any organization is designated as the Professional Standards Review Organization for any area, the Secretary shall, prior to entering into any such agreement with any organization for any area, inform (under regulations of the Secretary) the doctors of medicine or osteopathy who are in active practice in such area of the Secretary's intention to enter into such an agreement with such organization.

Agreement notice.

"(2) If, within a reasonable period of time following the serving of such notice, more than 10 per centum of such doctors object to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in such area, the Secretary shall conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. If more than 50 per centum of the doctors responding to such poll indicate that such organization is not representative of such doctors in such area the Secretary shall not enter into such an agreement with such organization.

**"REVIEW PENDING DESIGNATION OF PROFESSIONAL STANDARDS
REVIEW ORGANIZATION**

"SEC. 1153. Pending the assumption by a Professional Standards Review Organization for any area, of full review responsibility, and pending a demonstration of capacity for improved review effort with respect to matters involving the provision of health care services in such area for which payment (in whole or in part) may be made, under this Act, any review with respect to such services which has not been designated by the Secretary as the full responsibility of such organization, shall be reviewed in the manner otherwise provided for under law.

"TRIAL PERIOD FOR PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"SEC. 1154. (a) The Secretary shall initially designate an organization as a Professional Standards Review Organization for any area on a conditional basis with a view to determining the capacity of such organization to perform the duties and functions imposed under this part on Professional Standards Review Organizations. Such designation may not be made prior to receipt from such organization and approval by the Secretary of a formal plan for the orderly assumption and implementation of the responsibilities of the Professional Standards Review Organization under this part.

Plan, approval.

Duties.

"(b) During any such trial period (which may not exceed 24 months), the Secretary may require a Professional Standards Review Organization to perform only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing. The number and type of such duties shall, during the trial period, be progressively increased as the organization becomes capable of added responsibility so that, by the end of such period, such organization shall be considered a qualified organization only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided or ordered by physicians and other practitioners and institutional and other health care facilities, agencies, and organizations. Any of such duties and functions not performed by such organization during such period shall be performed in the manner and to the extent otherwise provided for under law.

Termination,
notice.

"(c) Any agreement under which any organization is conditionally designated as the Professional Standards Review Organization for any area may be terminated by such organization upon 90 days notice to the Secretary or by the Secretary upon 90 days notice to such organization.

“DUTIES AND FUNCTIONS OF PROFESSIONAL STANDARDS REVIEW
ORGANIZATIONS

“SEC. 1155. (a) (1) Notwithstanding any other provision of law, but consistent with the provisions of this part, it shall (subject to the provisions of subsection (g)) be the duty and function of each Professional Standards Review Organization for any area to assume, at the earliest date practicable, responsibility for the review of the professional activities in such area of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under this Act for the purpose of determining whether—

“(A) such services and items are or were medically necessary;

“(B) the quality of such services meets professionally recognized standards of health care; and

“(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided on an outpatient basis or more economically in an inpatient health care facility of a different type.

“(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

“(A) any elective admission to a hospital, or other health care facility, or

“(B) any other health care service which will consist of extended or costly courses of treatment, whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in clauses (A) and (C) of paragraph (1).

“(3) Each Professional Standards Review Organization shall, in accordance with regulations of the Secretary, determine and publish, from time to time, the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order most effectively to carry out the purposes of this part, exercise the authority conferred upon it under paragraph (2).

Case criteria,
publication.

“(4) Each Professional Standards Review Organization shall be responsible for the arranging for the maintenance of and the regular review of profiles of care and services received and provided with respect to patients, utilizing to the greatest extent practicable in such patient profiles, methods of coding which will provide maximum confidentiality as to patient identity and assure objective evaluation consistent with the purposes of this part. Profiles shall also be regularly reviewed on an ongoing basis with respect to each health care practitioner and provider to determine whether the care and services ordered or rendered are consistent with the criteria specified in clauses (A), (B), and (C) of paragraph (1).

Patient pro-
files, main-
tenance and review.

“(5) Physicians assigned responsibility for the review of hospital care may be only those having active hospital staff privileges in at least one of the participating hospitals in the area served by the Professional Standards Review Organization and (except as may be otherwise provided under subsection (e) (1) of this section) such physicians ordinarily should not be responsible for, but may participate in the review of care and services provided in any hospital in which such physicians have active staff privileges.

Hospital care,
physician review.

"(6) No physician shall be permitted to review—

"(A) health care services provided to a patient if he was directly or indirectly involved in providing such services, or

"(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, any financial interest in such institution, organization, or agency.

Physician's
family.

For purposes of this paragraph, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

"(b) To the extent necessary or appropriate for the proper performance of its duties and functions, the Professional Standards Review Organization serving any area is authorized in accordance with regulations prescribed by the Secretary to—

"(1) make arrangements to utilize the services of persons who are practitioners of or specialists in the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

"(2) undertake such professional inquiry either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review under subsection (a) (1);

"(3) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under subsection (a) (1); and

"(4) inspect the facilities in which care is rendered or services provided (which are located in such area) of any practitioner or provider.

"(c) No Professional Standards Review Organization shall utilize the services of any individual who is not a duly licensed doctor of medicine or osteopathy to make final determinations in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine or osteopathy, or any act performed by any duly licensed doctor of medicine or osteopathy in the exercise of his profession.

"(d) In order to familiarize physicians with the review functions and activities of Professional Standards Review Organizations and to promote acceptance of such functions and activities by physicians, patients, and other persons, each Professional Standards Review Organization, in carrying out its review responsibilities, shall (to the maximum extent consistent with the effective and timely performance of its duties and functions)—

"(1) encourage all physicians practicing their profession in the area served by such Organization to participate as reviewers in the review activities of such Organizations;

"(2) provide rotating physician membership of review committees on an extensive and continuing basis;

"(3) assure that membership on review committees have the broadest representation feasible in terms of the various types of practice in which physicians engage in the area served by such Organization; and

"(4) utilize, whenever appropriate, medical periodicals and similar publications to publicize the functions and activities of Professional Standards Review Organizations.

"(e) (1) Each Professional Standards Review Organization shall utilize the services of, and accept the findings of, the review committees of a hospital or other operating health care facility or organization located in the area served by such organization, but only when and only to the extent and only for such time that such committees in such hospital or other operating health care facility or organization have demonstrated to the satisfaction of such organization their capacity effectively and in timely fashion to review activities in such hospital or other operating health care facility or organization (including the medical necessity of admissions, types and extent of services ordered, and lengths of stay) so as to aid in accomplishing the purposes and responsibilities described in subsection (a) (1), except where the Secretary disapproves, for good cause, such acceptance.

Review committees.

"(2) The Secretary may prescribe regulations to carry out the provisions of this subsection.

Regulations.

"(f) (1) An agreement entered into under this part between the Secretary and any organization under which such organization is designated as the Professional Standards Review Organization for any area shall provide that such organization will—

Agreement requirements.

"(A) perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part; and

"(B) collect such data relevant to its functions and such information and keep and maintain such records in such form as the Secretary may require to carry out the purposes of this part and to permit access to and use of any such records as the Secretary may require for such purposes.

"(2) Any such agreement with an organization under this part shall provide that the Secretary make payments to such organization equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organization in carrying out or preparing to carry out the duties and functions required by such agreement.

"(g) Notwithstanding any other provision of this part, the responsibility for review of health care services of any Professional Standards Review Organization shall be the review of health care services provided by or in institutions, unless such Organization shall have made a request to the Secretary that it be charged with the duty and function of reviewing other health care services and the Secretary shall have approved such request.

"NORMS OF HEALTH CARE SERVICES FOR VARIOUS ILLNESSES OR HEALTH CONDITIONS

"SEC. 1156. (a) Each Professional Standards Review Organization shall apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice in its regions (including typical lengths-of-stay for institutional care by age and diagnosis) as principal points of evaluation and review. The National Professional Standards Review Council and the Secretary shall provide such technical assistance to the organization as will be helpful in utilizing and applying such norms of care, diagnosis, and treatment. Where the actual norms of care, diagnosis, and treatment in a Professional Standards Review Organization area are significantly different from professionally developed regional norms of care, diagnosis, and

treatment approved for comparable conditions, the Professional Standards Review Organization concerned shall be so informed, and in the event that appropriate consultation and discussion indicate reasonable basis for usage of other norms in the area concerned, the Professional Standards Review Organization may apply such norms in such area as are approved by the National Professional Standards Review Council.

“(b) Such norms with respect to treatment for particular illnesses or health conditions shall include (in accordance with regulations of the Secretary)—

“(1) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care;

“(2) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

Preparation and
distribution of
data.

“(c) (1) The National Professional Standards Review Council shall provide for the preparation and distribution, to each Professional Standards Review Organization and to each other agency or person performing review functions with respect to the provision of health care services under this Act, of appropriate materials indicating the regional norms to be utilized pursuant to this part. Such data concerning norms shall be reviewed and revised from time to time. The approval of the National Professional Standards Review Council of norms of care, diagnosis, and treatment shall be based on its analysis of appropriate and adequate data.

“(2) Each review organization, agency, or person referred to in paragraph (1) shall utilize the norms developed under this section as a principal point of evaluation and review for determining, with respect to any health care services which have been or are proposed to be provided, whether such care and services are consistent with the criteria specified in section 1155 (a) (1).

Ante, p. 1433.

“(d) (1) Each Professional Standards Review Organization shall—

“(A) in accordance with regulations of the Secretary, specify the appropriate points in time after the admission of a patient for inpatient care in a health care institution, at which the physician attending such patient shall execute a certification stating that further inpatient care in such institution will be medically necessary effectively to meet the health care needs of such patient; and

“(B) require that there be included in any such certification with respect to any patient such information as may be necessary to enable such organization properly to evaluate the medical necessity of the further institutional health care recommended by the physician executing such certification.

“(2) The points in time at which any such certification will be required (usually, not later than the 50th percentile of lengths-of-stay for patients in similar age groups with similar diagnoses) shall be consistent with and based on professionally developed norms of care and treatment and data developed with respect to length of stay in health care institutions of patients having various illnesses, injuries, or health conditions, and requiring various types of health care services or procedures.

"SUBMISSION OF REPORTS BY PROFESSIONAL STANDARDS REVIEW
ORGANIZATIONS

"SEC. 1157. If, in discharging its duties and functions under this part, any Professional Standards Review Organization determines that any health care practitioner or any hospital, or other health care facility, agency, or organization has violated any of the obligations imposed by section 1160, such organization shall report the matter to the Statewide Professional Standards Review Council for the State in which such organization is located together with the recommendations of such Organization as to the action which should be taken with respect to the matter. Any Statewide Professional Standards Review Council receiving any such report and recommendation shall review the same and promptly transmit such report and recommendation to the Secretary together with any additional comments or recommendations thereon as it deems appropriate. The Secretary may utilize a Professional Standards Review Organization, in lieu of a program review team as specified in sections 1862 and 1866, for purposes of subparagraph (C) of section 1862(d)(1) and subparagraph (F) of section 1866(b)(2).

Post, p. 1438.

79 Stat. 325;
81 Stat. 846.
42 USC 1395y,
1395cc.
Ante, p. 1408.
Ante, p. 1409.

"REQUIREMENT OF REVIEW APPROVAL AS CONDITION OF PAYMENT OF CLAIMS

"SEC. 1158. (a) Except as provided for in section 1159, no Federal funds appropriated under any title of this Act (other than title V) for the provision of health care services or items shall be used (directly or indirectly) for the payment, under such title or any program established pursuant thereto, of any claim for the provision of such services or items, unless the Secretary, pursuant to regulation determines that the claimant is without fault if—

81 Stat. 921.
42 USC 701.

"(1) the provision of such services or items is subject to review under this part by any Professional Standards Review Organization, or other agency; and

"(2) such organization or other agency has, in the proper exercise of its duties and functions under or consistent with the purposes of this part, disapproved of the services or items giving rise to such claim, and has notified the practitioner or provider who provided or proposed to provide such services or items and the individual who would receive or was proposed to receive such services or items of its disapproval of the provision of such services or items.

"(b) Whenever any Professional Standards Review Organization, in the discharge of its duties and functions as specified by or pursuant to this part, disapproves of any health care services or items furnished or to be furnished by any practitioner or provider, such organization shall, after notifying the practitioner, provider, or other organization or agency of its disapproval in accordance with subsection (a), promptly notify the agency or organization having responsibility for acting upon claims for payment for or on account of such services or items.

"HEARINGS AND REVIEW BY SECRETARY

"SEC. 1159. (a) Any beneficiary or recipient who is entitled to benefits under this Act (other than title V) or a provider or practitioner who is dissatisfied with a determination with respect to a claim made by a Professional Standards Review Organization in carrying out its responsibilities for the review of professional activities in accordance with paragraphs (1) and (2) of section 1155(a) shall, after being

Ante, p. 1433.

notified of such determination, be entitled to a reconsideration thereof by the Professional Standards Review Organization and, where the Professional Standards Review Organization reaffirms such determination in a State which has established a Statewide Professional Standards Review Council, and where the matter in controversy is \$100 or more, such determination shall be reviewed by professional members of such Council and, if the Council so determined, revised.

"(b) Where the determination of the Statewide Professional Standards Review Council is adverse to the beneficiary or recipient (or, in the absence of such Council in a State and where the matter in controversy is \$100 or more), such beneficiary or recipient shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and, where the amount in controversy is \$1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). The Secretary will render a decision only after appropriate professional consultation on the matter.

"(c) Any review or appeals provided under this section shall be in lieu of any review, hearing, or appeal under this Act with respect to the same issue.

"OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW

"SEC. 1160. (a)(1) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under this Act, to assure that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under this Act—

"(A) will be provided only when, and to the extent, medically necessary; and

"(B) will be of a quality which meets professionally recognized standards of health care; and

"(C) will be supported by evidence of such medical necessity and quality in such form and fashion and at such time as may reasonably be required by the Professional Standards Review Organization in the exercise of its duties and responsibilities; and it shall be the obligation of any health care practitioner in ordering, authorizing, directing, or arranging for the provision by any other person (including a hospital or other health care facility, organization, or agency), of health care services for any patient of such practitioner, to exercise his professional responsibility with a view to assuring (to the extent of his influence or control over such patient, such person, or the provision of such services) that such services or items will be provided—

"(D) only when, and to the extent, medically necessary; and

"(E) will be of a quality which meets professionally recognized standards of health care.

"(2) Each health care practitioner, and each hospital or other provider of health care services, shall have an obligation, within reasonable limits of professional discretion, not to take any action, in the exercise of his profession (in the case of any health care practitioner), or in the conduct of its business (in the case of any hospital or other such provider), which would authorize any individual to be admitted as an inpatient in or to continue as an inpatient in any hospital or other health care facility unless—

53 Stat. 1368.
42 USC 405.

“(A) inpatient care is determined by such practitioner and by such hospital or other provider, consistent with professionally recognized health care standards, to be medically necessary for the proper care of such individual; and

“(B) (i) the inpatient care required by such individual cannot, consistent with such standards, be provided more economically in a health care facility of a different type; or

“(ii) (in the case of a patient who requires care which can, consistent with such standards, be provided more economically in a health care facility of a different type) there is, in the area in which such individual is located, no such facility or no such facility which is available to provide care to such individual at the time when care is needed by him.

“(b) (1) If after reasonable notice and opportunity for discussion with the practitioner or provider concerned, any Professional Standards Review Organization submits a report and recommendations to the Secretary pursuant to section 1157 (which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate) and if the Secretary determines that such practitioner or provider, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under this Act has—

Report and
recommendations.

Ante, p. 1437.

“(A) by failing, in a substantial number of cases, substantially to comply with any obligation imposed on him under subsection (a), or

“(B) by grossly and flagrantly violating any such obligation in one or more instances, demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, he (in addition to any other sanction provided under law) may exclude (permanently for such period as the Secretary may prescribe) such practitioner or provider from eligibility to provide such services on a reimbursable basis.

“(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in title XVIII with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

42 USC 1395.

“(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or provider to provide such health care services on a reimbursable basis) such practitioner or provider pay to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or provider of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided, or (if less) \$5,000. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the person from whom such amount is claimed.

53 Stat. 1368.
42 USC 405.

"(4) Any person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(c) It shall be the duty of each Professional Standards Review Organization and each Statewide Professional Standards Review Council to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or provider (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

"NOTICE TO PRACTITIONER OR PROVIDER

"SEC. 1161. Whenever any Professional Standards Review Organization takes any action or makes any determination—

"(a) which denies any request, by a health care practitioner or other provider of health care services, for approval of a health care service or item proposed to be ordered or provided by such practitioner or provider; or

"(b) that any such practitioner or provider has violated any obligation imposed on such practitioner or provider under section 1160,

such organization shall, immediately after taking such action or making such determination, give notice to such practitioner or provider of such determination and the basis therefor, and shall provide him with appropriate opportunity for discussion and review of the matter.

"STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS; ADVISORY GROUPS TO SUCH COUNCILS

Establishment.

"SEC. 1162. (a) In any State in which there are located three or more Professional Standards Review Organizations, the Secretary shall establish a Statewide Professional Standards Review Council.

Membership.

"(b) The membership of any such Council for any State shall be appointed by the Secretary and shall consist of—

"(1) one representative from and designated by each Professional Standards Review Organization in the State;

"(2) four physicians, two of whom may be designated by the State medical society and two of whom may be designated by the State hospital association of such State to serve as members on such Council; and

"(3) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

Duties.

"(c) It shall be the duty and function of the Statewide Professional Standards Review Council for any State, in accordance with regulations of the Secretary, (1) to coordinate the activities of, and disseminate information and data among the various Professional Standards Review Organizations within such State including assisting the Secre-

tary in development of uniform data gathering procedures and operating procedures applicable to the several areas in a State (including, where appropriate, common data processing operations serving several or all areas) to assure efficient operation and objective evaluation of comparative performance of the several areas and, (2) to assist the Secretary in evaluating the performance of each Professional Standards Review Organization, and (3) where the Secretary finds it necessary to replace a Professional Standards Review Organization, to assist him in developing and arranging for a qualified replacement Professional Standards Review Organization.

“(d) The Secretary is authorized to enter into an agreement with any such Council under which the Secretary shall make payments to such Council equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such Council in carrying out the duties and functions provided in this section.

Payments.

“(e) (1) The Statewide Professional Standards Review Council for any State (or in a State which does not have such Council, the Professional Standards Review Organizations in such State which have agreements with the Secretary) shall be advised and assisted in carrying out its functions by an advisory group (of not less than seven nor more than eleven members) which shall be made up of representatives of health care practitioners (other than physicians) and hospitals and other health care facilities which provide within the State health care services for which payment (in whole or in part) may be made under any program established by or pursuant to this Act.

“(2) The Secretary shall by regulations provide the manner in which members of such advisory group shall be selected by the Statewide Professional Standards Review Council (or Professional Standards Review Organizations in States without such Councils).

Member selection, regulations.

“(3) The expenses reasonably and necessarily incurred, as determined by the Secretary, by such group in carrying out its duties and functions under this subsection shall be considered to be expenses necessarily incurred by the Statewide Professional Standards Review Council served by such group.

Expenses.

“NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

“SEC. 1163. (a) (1) There shall be established a National Professional Standards Review Council (hereinafter in this section referred to as the ‘Council’) which shall consist of eleven physicians, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

Establishment; membership.

“(2) Members of the Council shall be appointed for a term of three years and shall be eligible for reappointment.

5 USC 101 et seq.

“(3) The Secretary shall from time to time designate one of the members of the Council to serve as Chairman thereof.

Term of membership.

“(b) Members of the Council shall consist of physicians of recognized standing and distinction in the appraisal of medical practice. A majority of such members shall be physicians who have been recommended by the Secretary to serve on the Council by national organizations recognized by the Secretary as representing practicing physicians. The membership of the Council shall include physicians who have been recommended for membership on the Council by consumer groups and other health care interests.

Qualifications.

“(c) The Council is authorized to utilize, and the Secretary shall make available, or arrange for, such technical and professional consultative assistance as may be required to carry out its functions, and the

Consultants.

Secretary shall, in addition, make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by, for, or otherwise available to, the Department of Health, Education, and Welfare as the Council may require to carry out its functions.

Compensation.

"(d) Members of the Council, while serving on business of the Council, shall be entitled to receive compensation at a rate fixed by the Secretary (but not in excess of the daily rate paid under GS-18 of the General Schedule under section 5332 of title 5, United States Code), including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

5 USC 5332
note.

Duties.

"(e) It shall be the duty of the Council to—

"(1) advise the Secretary in the administration of this part;

"(2) provide for the development and distribution, among Statewide Professional Standards Review Councils and Professional Standards Review Organizations of information and data which will assist such review councils and organizations in carrying out their duties and functions;

"(3) review the operations of Statewide Professional Standards Review Councils and Professional Standards Review Organizations with a view to determining the effectiveness and comparative performance of such review councils and organizations in carrying out the purposes of this part; and

"(4) make or arrange for the making of studies and investigations with a view to developing and recommending to the Secretary and to the Congress measures designed more effectively to accomplish the purposes and objectives of this part.

Report to Secretary and Congress.

"(f) The National Professional Standards Review Council shall from time to time, but not less often than annually, submit to the Secretary and to the Congress a report on its activities and shall include in such report the findings of its studies and investigations together with any recommendations it may have with respect to the more effective accomplishment of the purposes and objectives of this part. Such report shall also contain comparative data indicating the results of review activities, conducted pursuant to this part, in each State and in each of the various areas thereof.

**"APPLICATION OF THIS PART TO CERTAIN STATE PROGRAMS RECEIVING
FEDERAL FINANCIAL ASSISTANCE**

"SEC. 1164. (a) In addition to the requirements imposed by law as a condition of approval of a State plan approved under any title of this Act under which health care services are paid for in whole or part, with Federal funds, there is hereby imposed the requirement that provisions of this part shall apply to the operation of such plan or program.

"(b) The requirement imposed by subsection (a) with respect to such State plans approved under this Act shall apply—

"(1) in the case of any such plan where legislative action by the State legislature is not necessary to meet such requirement, on and after January 1, 1974; and

"(2) in the case of any such plan where legislative action by the State legislature is necessary to meet such requirement, whichever of the following is earlier—

"(A) on and after July 1, 1974, or

"(B) on and after the first day of the calendar month which first commences more than ninety days after the close of the first regular session of the legislature of such State which begins after December 31, 1973.

"CORRELATION OF FUNCTIONS BETWEEN PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS AND ADMINISTRATIVE INSTRUMENTALITIES

"SEC. 1165. The Secretary shall by regulations provide for such correlation of activities, such interchange of data and information, and such other cooperation consistent with economical, efficient, coordinated, and comprehensive implementation of this part (including, but not limited to, usage of existing mechanical and other data-gathering capacity) between and among—

"(a) (1) agencies and organizations which are parties to agreements entered into pursuant to section 1816, (2) carriers which are parties to contracts entered into pursuant to section 1842, and (3) any other public or private agency (other than a Professional Standards Review Organization) having review or control functions, or proved relevant data-gathering procedures and experience, and

"(b) Professional Standards Review Organizations, as may be necessary or appropriate for the effective administration of title XVIII, or State plans approved under this Act.

79 Stat. 297.
42 USC 1395h.
42 USC 1395u.

42 USC 1395.

"PROHIBITION AGAINST DISCLOSURE OF INFORMATION

"SEC. 1166. (a) Any data or information acquired by any Professional Standards Review Organization, in the exercise of its duties and functions, shall be held in confidence and shall not be disclosed to any person except (1) to the extent that may be necessary to carry out the purposes of this part or (2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care.

"(b) It shall be unlawful for any person to disclose any such information other than for such purposes, and any person violating the provisions of this section shall, upon conviction, be fined not more than \$1,000, and imprisoned for not more than six months, or both, together with the costs of prosecution.

Penalty.

"LIMITATION ON LIABILITY FOR PERSONS PROVIDING INFORMATION, AND FOR MEMBERS AND EMPLOYEES OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS, AND FOR HEALTH CARE PRACTITIONERS AND PROVIDERS

"SEC. 1167. (a) Notwithstanding any other provision of law, no person providing information to any Professional Standards Review Organization shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) unless—

"(1) such information is unrelated to the performance of the duties and functions of such Organization, or

"(2) such information is false and the person providing such information knew, or had reason to believe, that such information was false.

"(b) (1) No individual who, as a member or employee of any Professional Standards Review Organization or who furnishes profes-

sional counsel or services to such organization, shall be held by reason of the performance by him of any duty, function, or activity authorized or required of Professional Standards Review Organizations under this part, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

“(2) The provisions of paragraph (1) shall not apply with respect to any action taken by any individual if such individual, in taking such action, was motivated by malice toward any person affected by such action.

“(c) No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by a Professional Standards Review Organization (which has been designated in accordance with section 1152(b)(1)(A)) operating in the area where such doctor of medicine or osteopathy or provider took such action but only if—

“(1) he takes such action (in the case of a health care practitioner) in the exercise of his profession as a doctor of medicine or osteopathy (or in the case of a provider of health care services) in the exercise of his functions as a provider of health care services, and

“(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

Ante, p. 1430.

“AUTHORIZATION FOR USE OF CERTAIN FUNDS TO ADMINISTER THE PROVISIONS OF THIS PART

“SEC. 1168. Expenses incurred in the administration of this part shall be payable from—

“(a) funds in the Federal Hospital Insurance Trust Fund;

“(b) funds in the Federal Supplementary Medical Insurance Trust Fund; and

“(c) funds appropriated to carry out the health care provisions of the several titles of this Act;

in such amounts from each of the sources of funds (referred to in subsections (a), (b), and (c)) as the Secretary shall deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs.

“TECHNICAL ASSISTANCE TO ORGANIZATIONS DESIRING TO BE DESIGNATED AS PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

“SEC. 1169. The Secretary is authorized to provide all necessary technical and other assistance (including the preparation of prototype plans of organization and operation) to organizations described in section 1152(b)(1) which—

“(a) express a desire to be designated as a Professional Standards Review Organization; and

“(b) the Secretary determines have a potential for meeting the requirements of a Professional Standards Review Organization;

to assist such organizations in developing a proper plan to be submitted to the Secretary and otherwise in preparing to meet the requirements of this part for designation as a Professional Standards Review Organization.

"EXEMPTIONS OF CHRISTIAN SCIENCE SANATORIUMS

"SEC. 1170. The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts."

PHYSICAL THERAPY SERVICES AND OTHER THERAPY SERVICES UNDER MEDICARE

SEC. 251. (a)(1) Section 1861(p) of the Social Security Act is amended by adding at the end thereof (after and below paragraph (4)(B)) the following new sentence: "The term 'outpatient physical therapy services' also includes physical therapy services furnished an individual by a physical therapist (in his office or in such individual's home) who meets licensing and other standards prescribed by the Secretary in regulations, otherwise than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, if the furnishing of such services meets such conditions relating to health and safety as the Secretary may find necessary."

81 Stat. 850.
42 USC 1395x.

(2) Section 1833 of such Act is amended by adding at the end thereof the following new subsection:

Ante, p. 1424.

"(g) In the case of services described in the next to last sentence of section 1861(p), with respect to expenses incurred in any calendar year, no more than \$100 shall be considered as incurred expenses for purposes of subsections (a) and (b)."

(3) Section 1833(a)(2) of such Act (as amended by section 233(b) of this Act) is further amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or", and by adding after subparagraph (B) the following new subparagraph:

Ante, p. 1411.

"(C) if such services are services to which the next to last sentence of section 1861(p) applies, the reasonable charges for such services."

(4) Section 1832(a)(2)(C) of such Act is amended by striking out "services." and inserting in lieu thereof "services, other than services to which the next to last sentence of section 1861(p) applies."

81 Stat. 851.
42 USC 1395k.

(b)(1) Section 1861(p) of such Act (as amended by subsection (a)(1) of this section) is further amended by adding at the end thereof the following new sentence: "In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or extended care facility."

(2) Section 1835(a)(2)(C) of such Act is amended by striking out "on an outpatient basis".

81 Stat. 851.
42 USC 1395n.

(c) Section 1861(v) of such Act (as amended by sections 221(c)(4) and 223(f) of this Act) is further amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

Ante, p. 1394.

"(5)(A) Where physical therapy services, occupational therapy services, speech therapy services, or other therapy services or services of other health-related personnel (other than physicians) are furnished under an arrangement with a provider of services or other organization, specified in the first sentence of section 1861(p) the

amount included in any payment to such provider or other organization under this title as the reasonable cost of such services (as furnished under such arrangements) shall not exceed an amount equal to the salary which would reasonably have been paid for such services (together with any additional costs that would have been incurred by the provider or other organization) to the person performing them if they had been performed in an employment relationship with such provider or other organization (rather than under such arrangement) plus the cost of such other expenses (including a reasonable allowance for traveltime and other reasonable types of expense related to any differences in acceptable methods of organization for the provision of such therapy) incurred by such person, as the Secretary may in regulations determine to be appropriate.

81 Stat. 850.
42 USC 1395x.

“(B) Notwithstanding the provisions of subparagraph (A), if a provider of services or other organization specified in the first sentence of section 1861(p) requires the services of a therapist on a limited part-time basis, or only to perform intermittent services, the Secretary may make payment on the basis of a reasonable rate per unit of service, even though such rate is greater per unit of time than salary related amounts, where he finds that such greater payment is, in the aggregate, less than the amount that would have been paid if such organization had employed a therapist on a full- or part-time salary basis.”

Effective date.

(d) (1) The amendments made by subsection (a) shall apply with respect to services furnished on or after July 1, 1973.

(2) The amendments made by subsection (b) shall apply with respect to services furnished on or after the date of enactment of this Act.

(3) The amendments made by subsection (c) shall be effective with respect to accounting periods beginning after December 31, 1972.

COVERAGE OF SUPPLIES RELATED TO COLOSTOMIES

79 Stat. 313.
42 USC 1395x.

SEC. 252. (a) Section 1861(s)(8) of the Social Security Act is amended by inserting after “organ” the following: “(including colostomy bags and supplies directly related to colostomy care)”.

Effective date.

(b) The amendment made by subsection (a) shall apply only with respect to items furnished on or after the date of the enactment of this Act.

COVERAGE PRIOR TO APPLICATION FOR MEDICAL ASSISTANCE

Ante, pp. 1415,
1417.

SEC. 255. (a) Section 1902(a) of the Social Security Act (as amended by sections 236(b) and 239(b) of this Act) is further amended—

(1) by striking out “and” at the end of paragraph (32);

(2) by striking out the period at the end of paragraph (33) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (33) the following new paragraph:

“(34) provide that in the case of any individual who has been determined to be eligible for medical assistance under the plan, such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application for such assistance if such individual was (or upon application would have been) eligible for such assistance at the time such care and services were furnished.”

Effective date.

(b) The amendments made by subsection (a) shall be effective July 1, 1973.

HOSPITAL ADMISSIONS FOR DENTAL SERVICES UNDER MEDICARE

SEC. 256. (a) Section 1814(a)(2) of the Social Security Act is amended by striking out "or" at the end of subparagraph (C), by adding "or" after the semicolon at the end of the subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

Ante, p. 1413.

"(E) in the case of inpatient hospital services in connection with a dental procedure, the individual suffers from impairments of such severity as to require hospitalization;"

(b) Section 1861(r) of such Act is amended by inserting after "or any facial bone," the following: "or (C) the certification required by section 1814(a)(2)(E) of this Act,".

79 Stat. 321.
42 USC 1395x.

(c) Section 1862(a)(12) of such Act is amended by inserting before the semicolon the following: ", except that payment may be made under part A in the case of inpatient hospital services in connection with a dental procedure where the individual suffers from impairments of such severity as to require hospitalization".

42 USC 1395y.

(d) The amendments made by this section shall apply with respect to admissions occurring after the second month following the month in which this Act is enacted.

Effective date.

EXTENSION OF GRACE PERIOD FOR TERMINATION OF SUPPLEMENTARY MEDICAL INSURANCE COVERAGE WHERE FAILURE TO PAY PREMIUMS IS DUE TO GOOD CAUSE

SEC. 257. (a) Section 1838(b) of the Social Security Act is amended by striking out "(not in excess of 90 days)" in the third sentence, and by adding at the end thereof the following new sentence: "The grace period determined under the preceding sentence shall not exceed 90 days; except that it may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period."

Ante, p. 1378.

(b) The amendments made by subsection (a) shall apply with respect to nonpayment of premiums which become due and payable on or after the date of the enactment of this Act or which became payable within the 90-day period immediately preceding such date; and for purposes of such amendments any premium which became due and payable within such 90-day period shall be considered a premium becoming due and payable on the date of the enactment of this Act.

Effective date.

EXTENSION OF TIME FOR FILING CLAIM FOR SUPPLEMENTARY MEDICAL INSURANCE BENEFITS WHERE DELAY IS DUE TO ADMINISTRATIVE ERROR

SEC. 258. (a) Section 1842(b)(3) of the Social Security Act (as amended by section 224(a) of this Act) is further amended by adding at the end thereof the following new sentence: "The requirement in subparagraph (B) that a bill be submitted or request for payment be made by the close of the following calendar year shall not apply if (i) failure to submit the bill or request the payment by the close of such year is due to the error or misrepresentation of an officer, employee, fiscal intermediary, carrier, or agent of the Department of Health, Education, and Welfare performing functions under this title and acting within the scope of his or its authority, and (ii) the bill is submitted or the payment is requested promptly after such error or misrepresentation is eliminated or corrected."

Ante, p. 1395.

(b) The amendment made by subsection (a) shall apply with respect to bills submitted and requests for payment made after March 1968.

Effective date.

WAIVER OF ENROLLMENT PERIOD REQUIREMENTS WHERE INDIVIDUAL'S RIGHTS WERE PREJUDICED BY ADMINISTRATIVE ERROR OR INACTION

Ante, p. 1378.

SEC. 259. (a) Section 1837 of the Social Security Act (after the new subsections added by section 206(a) of this Act) is amended by adding at the end thereof the following new subsection:

Ante, p. 1374.

"(h) In any case where the Secretary finds that an individual's enrollment or nonenrollment in the insurance program established by this part or part A pursuant to section 1818 is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such individual of a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction."

Effective date.

(b) The amendment made by subsection (a) shall be effective as of July 1, 1966.

ELIMINATION OF PROVISIONS PREVENTING ENROLLMENT IN SUPPLEMENTARY MEDICAL INSURANCE PROGRAM MORE THAN THREE YEARS AFTER FIRST OPPORTUNITY

42 USC 1395p.

SEC. 260. Section 1837(b) of the Social Security Act is amended to read as follows:

"(b) No individual may enroll under this part more than twice."

WAIVER OF RECOVERY OF INCORRECT PAYMENTS FROM SURVIVOR WHO IS WITHOUT FAULT UNDER MEDICARE

42 USC 1395gg.

SEC. 261. (a) Section 1870(c) of the Social Security Act is amended by striking out "and where" and inserting in lieu thereof the following: "or where the adjustment (or recovery) would be made by decreasing payments to which another person who is without fault is entitled as provided in subsection (b) (4), if".

Effective date.

(b) The amendment made by subsection (a) shall apply with respect to waiver actions considered after the date of the enactment of this Act.

REQUIREMENT OF MINIMUM AMOUNT OF CLAIM TO ESTABLISH ENTITLEMENT TO HEARING UNDER SUPPLEMENTARY MEDICAL INSURANCE PROGRAM

42 USC 1395u.

SEC. 262. (a) Section 1842(b) (3) (C) of the Social Security Act is amended by inserting after "a fair hearing by the carrier" the following: "in any case where the amount in controversy is \$100 or more,".

Effective date.

(b) The amendment made by subsection (a) shall apply with respect to hearings requested (under the procedures established under section 1842(b) (3) (C) of the Social Security Act) after the date of the enactment of this Act.

COLLECTION OF SUPPLEMENTARY MEDICAL INSURANCE PREMIUMS FROM INDIVIDUALS ENTITLED TO BOTH SOCIAL SECURITY AND RAILROAD RETIREMENT BENEFITS

42 USC 1395s.

SEC. 263. (a) Section 1840(a) (1) of the Social Security Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsections (b) (1) and (c)".

(b) Section 1840(b)(1) of such Act is amended by inserting “(whether or not such individual is also entitled for such month to a monthly insurance benefit under section 202)” after “1937”, and by striking out “subsection (d)” and inserting in lieu thereof “subsection (c)”.

42 USC 1395s.

(c) Section 1840 of such Act is further amended by striking out subsection (c), and by redesignating subsections (d) through (i) as subsections (c) through (h), respectively.

(d) (1) Section 1840(e) of such Act (as so redesignated) is amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (c)”.

(2) Section 1840(f) of such Act (as so redesignated) is amended by striking out “subsection (d) or (f)” and inserting in lieu thereof “subsection (c) or (e)”.

(3) Section 1840(h) of such Act (as so redesignated) is amended by striking out “(c), (d), and (e)” and inserting in lieu thereof “(c), and (d)”.

(4) Section 1841(h) of such Act is amended by striking out “1840(e)” and inserting in lieu thereof “1840(d)”.

42 USC 1395t.

(5) Section 1842 of such Act is amended by adding at the end thereof the following new subsection:

42 USC 1395u.

“(g) The Railroad Retirement Board shall, in accordance with such regulations as the Secretary may prescribe, contract with a carrier or carriers to perform the functions set out in this section with respect to individuals entitled to benefits as qualified railroad retirement beneficiaries pursuant to section 226(a) of this Act and section 21(b) of the Railroad Retirement Act of 1937.”

Ante, p. 1371.

79 Stat. 340.

45 USC 228a-2.

42 USC 1395t.

(e) Section 1841 of such Act is amended by adding at the end thereof the following new subsection:

“(i) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to pay the costs incurred by the Railroad Retirement Board for services performed pursuant to section 1840(b)(1) and section 1842(g). During each fiscal year or after the close of such fiscal year, the Railroad Retirement Board shall certify to the Secretary the amount of the costs it incurred in performing such services and such certified amount shall be the basis for the amount of such costs certified by the Secretary to the Managing Trustee.”

(f) The amendments made by this section with respect to collection of premiums shall apply to premiums becoming due and payable after the fourth month following the month in which this Act is enacted.

Effective date.

PROSTHETIC LENSES FURNISHED BY OPTOMETRISTS UNDER SUPPLEMENTARY MEDICAL INSURANCE PROGRAM

SEC. 264. (a) Section 1861(r) of the Social Security Act (as amended by sections 211(c)(2) and 256(b) of this Act) is further amended (1) by striking out “or (3)” and inserting in lieu thereof “(3)”, and (2) by inserting before the period at the end thereof the following: “, or (4) a doctor of optometry who is legally authorized to practice optometry by the State in which he performs such function, but only with respect to establishing the necessity for prosthetic lenses”.

Ante, pp. 1384, 1447.

(b) The amendment made by subsection (a) shall apply only with respect to services performed on or after the date of the enactment of this Act.

Effective date.

PROVISION OF MEDICAL SOCIAL SERVICES NOT MANDATORY FOR EXTENDED
CARE FACILITIES

Ante, pp. 1412,
1424.

SEC. 265. Section 1861(j) (11) of the Social Security Act (as redesignated by section 234(d) of this Act) is amended by inserting before the semicolon at the end thereof the following: “, except that the Secretary shall not require as a condition of participation that medical social services be furnished in any such institution”.

REFUND OF EXCESS PREMIUMS UNDER MEDICARE

42 USC 1395gg.

SEC. 266. Section 1870 of the Social Security Act is amended by adding at the end thereof the following new subsection:

Ante, p. 1374.
42 USC 1395p.

“(g) If an individual, who is enrolled under section 1818(c) of the Social Security Act or under section 1837, dies, and premiums with respect to such enrollment have been received with respect to such individual for any month after the month of his death, such premiums shall be refunded to the person or persons determined by the Secretary under regulations to have paid such premiums or if payment for such premiums was made by the deceased individual before his death, to the legal representative of the estate of such deceased individual, if any. If there is no person who meets the requirements of the preceding sentence such premiums shall be refunded to the person or persons in the priorities specified in paragraphs (2) through (7) of subsection (e).”

WAIVER OF REGISTERED NURSE REQUIREMENT IN SKILLED NURSING
FACILITIES IN RURAL AREAS

Ante, pp. 1412,
1424.

SEC. 267. Section 1861(j) of the Social Security Act, as amended by sections 234(d) and 246(b) of this Act, is further amended by adding at the end thereof the following new sentence: “To the extent that paragraph (6) of this subsection may be deemed to require that any skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Secretary is authorized to waive such requirement if he finds that—

“(A) such facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein,

“(B) such facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

“(C) such facility (i) has only patients whose physicians have indicated (through physicians’ orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or (ii) has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.”

EXEMPTION OF CHRISTIAN SCIENCE SANATORIUMS FROM CERTAIN NURSING
HOME REQUIREMENTS UNDER MEDICAID

42 USC 1396a.

SEC. 268. (a) Section 1902(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: “For purposes of paragraphs (9)(A), (29), (31), and (33), and of section 1903(i) (4), the terms ‘skilled nursing home’ and ‘nursing home’ do not

Ante, p. 1415.

include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.”

(b) Section 1908(g)(1) of such Act is amended by inserting after “Secretary” the following: “, but does not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts”.

(c) The amendments made by this section shall be effective on the date of the enactment of this Act.

81 Stat. 908.
42 USC 1396g.

Effective date.

REQUIREMENTS FOR NURSING HOME ADMINISTRATORS

SEC. 269. Section 1908(d) of the Social Security Act is amended by striking out “No State” and inserting in lieu thereof the following: “No State shall be considered to have failed to comply with the provisions of section 1902(a)(29) because the agency or board of such State (established pursuant to subsection (b)) shall have granted any waiver, with respect to any individual who, during all of the three calendar years immediately preceding the calendar year in which the requirements prescribed in section 1902(a)(29) are first met by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such agency or board pursuant to subsection (c). No State”.

42 USC 1396a.

INCREASE IN LIMITATION ON PAYMENTS TO PUERTO RICO AND THE VIRGIN ISLANDS FOR MEDICAL ASSISTANCE

SEC. 271. (a) Section 1108(c)(1) of the Social Security Act is amended by striking out “\$20,000,000” and inserting in lieu thereof “\$30,000,000”.

42 USC 1308.

(b) Section 1108(c)(2) of such Act is amended by striking out “\$650,000” and inserting in lieu thereof “\$1,000,000”.

(c) The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after June 30, 1971.

Effective date.

MEDICAL ASSISTANCE IN PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SEC. 271A. (a) Section 227(b) of the Social Security Amendments of 1967 is amended by striking out “June 30, 1972” and inserting in lieu thereof “June 30, 1975”.

81 Stat. 903.
42 USC 1396a

(b) The amendment made by subsection (a) shall be effective from and after July 1, 1972.

note.
Effective date.

EXTENSION OF TITLE V TO AMERICAN SAMOA AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 272. (a) Section 1101(a)(1) of the Social Security Act is amended by adding at the end thereof the following new sentence: “Such term when used in title V also includes American Samoa and the Trust Territory of the Pacific Islands.”

42 USC 1301.

(b) Section 1108(d) of such Act is amended by inserting, after “allot such smaller amount to Guam”, the following: “, American Samoa, and the Trust Territory of the Pacific Islands”.

42 USC 1308.

(c) The amendments made by this section shall apply with respect to fiscal years beginning after June 30, 1971.

Effective date.

INCLUSION OF CHIROPRACTOR SERVICES UNDER MEDICARE

SEC. 273. (a) Section 1861(r) of the Social Security Act (as amended by sections 256(b) and 264(a) of this Act) is further amended by—

Ante, p. 1449.

(1) striking out “or (4)” and inserting in lieu thereof “(4)”, and

(2) inserting before the period at the end thereof the following “, or (5) a chiropractor who is licensed as such by the State (or in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services), and who meets uniform minimum standards promulgated by the Secretary, but only for the purpose of sections 1861(s)(1) and 1861(s)(2)(A) and only with respect to treatment by means of manual manipulation of the spine (to correct a subluxation demonstrated by X-ray to exist) which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided”.

42 USC 1395x.

Effective date.

(b) The amendments made by this section shall be effective with respect to services furnished after June 30, 1973.

MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS

SEC. 274. (a) Clause (A) of section 1902(a)(26) of the Social Security Act is amended by striking out “evaluation” and inserting in lieu thereof “evaluation”, and by striking out “care” and inserting in lieu thereof “care”.

42 USC 1396a.

42 USC 1396g.

(b) Section 1908(d) of such Act is amended by striking out “subsection (b)(1)” and inserting in lieu thereof “subsection (c)(1)”.

CHIROPRACTORS’ SERVICES UNDER MEDICAID

SEC. 275. (a) Section 1905 of the Social Security Act is amended by adding after subsection (f), as added by section 247 of this Act, the following new subsection:

“(g) If the State plan includes provision of chiropractors’ services, such services include only—

“(1) services provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1861(r)(5); and

“(2) services which consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.”

Effective date.

(b) The amendment made by this section shall be effective with respect to services furnished after June 30, 1973.

SERVICES OF PODIATRIC INTERNS AND RESIDENTS UNDER PART A OF MEDICARE

SEC. 276. (a) Section 1861(b)(6), as added by section 227(a) of this Act, is amended by deleting “; or” and inserting in lieu thereof the following: “, or in the case of services in a hospital or osteopathic hospital by an intern or resident-in-training in the field of podiatry, approved by the Council on Podiatry Education of the American Podiatry Association; or”.

Effective date.

(b) The amendment made by this section shall apply with respect to accounting periods beginning after December 31, 1972.

USE OF CONSULTANTS FOR EXTENDED CARE FACILITIES

42 USC 1395aa.

SEC. 277. Section 1864(a) of the Social Security Act is amended by adding at the end the following new sentence: “Any State agency which has such an agreement may (subject to approval of the Secre-

tary) furnish to an extended care facility, after proper request by such facility, such specialized consultative services (which such agency is able and willing to furnish in a manner satisfactory to the Secretary) as such facility may need to meet one or more of the conditions specified in section 1861(j). Any such services furnished by a State agency shall be deemed to have been furnished pursuant to such agreement."

42 USC 1395x.

DESIGNATION OF EXTENDED CARE FACILITIES AND SKILLED NURSING HOMES
AS SKILLED NURSING FACILITIES

SEC. 278. (a) The following sections of the Social Security Act are amended by striking out "extended care facility", "extended care facilities", "skilled nursing home", and "skilled nursing homes" each time they appear therein and inserting in lieu thereof "skilled nursing facility" or "skilled nursing facilities", as the case may be, and by changing "an" to "a" as appropriate:

(1) section 1814(a)(2)(C);

Ante, p. 1425.

(2) section 1814(a)(6);

42 USC 1395f.

(3) section 1814(a)(7);

(4) section 1861(a)(2);

42 USC 1395x.

(5) section 1861(h);

(6) section 1861(i);

(7) section 1861(j);

(8) section 1861(k);

(9) section 1861(l);

(10) section 1861(m)(7);

(11) section 1861(n);

(12) section 1861(u);

(13) section 1861(v)(3);

(14) section 1861(w);

(15) section 1861(y);

(16) section 1864(a);

42 USC 1395aa.

(17) section 1866;

42 USC 1395cc.

(18) section 1902(a)(13);

42 USC 1396a.

(19) section 1902(a)(26);

(20) section 1902(a)(28);

Ante, p. 1424.

(21) section 1905(a)(4);

42 USC 1396d.

(22) section 1905(a)(5);

(23) section 1905(a)(14); and

Ante, p. 1459.

(24) section 1121.

42 USC 1320a.

(b) The following sections of the Social Security Act, as amended or added by the provisions of this Act, are further amended by striking out the terms "extended care facility", "extended care facilities", "skilled nursing home", and "skilled nursing homes" each time they appear therein and inserting in lieu thereof "skilled nursing facility" or "skilled nursing facilities", as the case may be, and by changing "an" to "a" as appropriate:

(1) section 1903(g) and (h) of the Social Security Act as added by section 207 of this Act;

(2) section 402(a)(1)(E) of the Social Security Amendments of 1967 as amended by section 222 of this Act;

(3) section 1876 of the Social Security Act as added by section 226(a) of this Act;

(4) section 1814(h) of such Act as added by section 228(a) of this Act;

(5) section 1903(h) of such Act as added by section 207(a)(1) of this Act;

(6) section 1861(z) of such Act as added by section 234(f) of this Act;

- (7) section 1903(i) (4) of such Act as added by section 237(a) of this Act;
- (8) section 1877(c) of such Act as added by section 242(b) of this Act;
- (9) section 1909(c) of such Act as added by section 242(c) of this Act;
- (10) section 1861(i) of such Act as amended by section 248 of this Act;
- (11) section 1861(v) (1) (E) of such Act as added by section 249(b) of this Act;
- (12) section 1910 of such Act as added by section 249A of this Act;
- (13) section 1861(j) of such Act as amended by section 267 of this Act;
- (14) section 1902(a) of such Act as amended by section 268 of this Act;
- (15) section 1864(a) of such Act as amended by section 277 of this Act;
- (16) section 1903(j) of such Act as added by section 225 of this Act;
- (17) section 1814(h) of such Act as added by section 228(a) of this Act; and
- (18) section 1866(a) (1) of such Act as amended by section 249A of this Act.

DIRECT LABORATORY BILLING OF PATIENTS

Ante, p. 1384.

SEC. 279. (a) Section 1833(a) (1) of the Social Security Act (as amended by section 211(c) (4) of this Act) is further amended by—

(1) striking out “and” before “(C)”;

(2) inserting before the semicolon at the end thereof the following: “, and (D) with respect to diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the amounts paid shall be equal to 100 percent of the negotiated rate for such tests (as determined pursuant to subsection (g) of this section)”.

Ante, p. 1445.

(b) Section 1833 of such Act is amended by adding at the end thereof the following subsection:

“(g) With respect to diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the Secretary is authorized to establish a payment rate which is acceptable to the laboratory and which would be considered the full charge for such tests. Such negotiated rate shall be limited to an amount not in excess of the total payment that would have been made for the services in the absence of such a rate.”

CLARIFICATION OF MEANING OF “PHYSICIANS’ SERVICES” UNDER TITLE XIX

42 USC 1396d.

SEC. 280. Section 1905(a) (5) of the Social Security Act is amended by inserting “furnished by a physician (as defined in section 1861(r) (1))” after “physicians’ services”.

LIMITATION ON ADJUSTMENT OR RECOVERY OF INCORRECT PAYMENTS UNDER THE MEDICARE PROGRAM

42 USC 1395gg.

SEC. 281. (a) (1) Section 1870(b) (1) of the Social Security Act is amended by—

(A) inserting “(A)” after “the Secretary determines”; and

(B) inserting at the end of paragraph (1) the following:

“(B) that such provider of services or other person was without fault with respect to the payment of such excess over the correct amount, or”.

(2) Section 1870(b) of such Act is amended by adding at the end the following new sentence: “For purposes of clause (B) of paragraph (1), such provider of services or such other person shall, in the absence of evidence to the contrary, be deemed to be without fault if the Secretary’s determination that more than such correct amount was paid was made subsequent to the third year following the year in which notice was sent to such individual that such amount had been paid; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title.”

42 USC 1395gg.

(b) Section 1870(c) of such Act (as amended by section 261 of this Act) is further amended by—

(1) inserting “or title XVIII” after “title II”, and

(2) adding at the end the following new sentence: “Adjustment or recovery of an incorrect payment (or only such part of an incorrect payment as the Secretary determines to be inconsistent with the purposes of this title) against an individual who is without fault shall be deemed to be against equity and good conscience if (A) the incorrect payment was made for expenses incurred for items or services for which payment may not be made under this title by reason of the provisions of paragraph (1) or (9) of section 1862 and (B) if the Secretary’s determination that such payment was incorrect was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title.”

42 USC 1395y.

(c) Section 1866(a)(1) of such Act (as amended by section 227(d)(2) of this Act) is further amended by—

(1) redesignating subparagraph (B) as subparagraph (C), and

(2) inserting after subparagraph (A) the following new subparagraph:

“(B) not to charge any individual or any other person for items or services for which such individual is not entitled to have payment made under this title because payment for expenses incurred for such items or services may not be made by reason of the provisions of paragraph (1) or (9), but only if (i) such individual was without fault in incurring such expenses and (ii) the Secretary’s determination that such payment may not be made for such items and services was made after the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title, and”

(d) Section 1842(b)(3)(B)(ii) of such Act (as amended by section 211(c)(3) of this Act) is further amended by—

(1) inserting “(I)” after “of which”; and

(2) inserting after “service” the following: “and (II) the physician or other person furnishing such service agrees not to charge for such service if payment may not be made therefor by reason of the provisions of paragraph (1) of section 1862, and if the individual to whom such service was furnished was without fault in incurring the expenses of such service, and if the

Secretary's determination that payment (pursuant to such assignment) was incorrect and was made subsequent to the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this title."

42 USC 1395f.

(e) Section 1814(a) (1) of such Act is amended to read as follows:

"(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year;"

42 USC 1395n.

(f) Section 1835(a) (1) of such Act is amended to read as follows:

"(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that, where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year; and"

Effective date.

(g) The provisions of subsection (a) (1) shall apply with respect to notices of payment sent to individuals after the date of enactment of this Act. The provisions of subsections (a) (2), (b), (c), and (d) shall apply in the case of notices sent to individuals after 1968. The provisions of subsections (e) and (f) shall apply in the case of services furnished (or deemed to have been furnished) after 1970.

COVERAGE OF OUTPATIENT SPEECH PATHOLOGY SERVICES UNDER MEDICARE

Ante, p. 1445.

SEC. 283. (a) Section 1861(p) of the Social Security Act is amended by adding at the end thereof the following new sentence: "The term 'outpatient physical therapy services' also includes speech pathology services furnished by a provider of services, a clinic, rehabilitation agency, or by a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient, subject to the conditions prescribed in this subsection."

(b) Section 1835(a) (2) of such Act (as amended by section 251 of this Act) is further amended—

(1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(2) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of outpatient speech pathology services, (i) such services are or were required because the individual needed speech pathology services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician."

Effective date.

(c) The provisions of this section shall apply with respect to services rendered after December 31, 1972.

TERMINATION OF MEDICAL ASSISTANCE ADVISORY COUNCIL

SEC. 287. (a) Section 1906 of the Social Security Act is repealed.
 (b) The provisions of subsection (a) shall become effective on the first day of the third calendar month following the month in which this Act is enacted.

Repeal.
 42 USC 1396e.
 Effective date.

MODIFICATION OF THE ROLE OF THE HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 288. (a) Section 1867 (a) of the Social Security Act is amended to read as follows:

42 USC 1395dd.

“(a) There is hereby created a Health Insurance Benefits Advisory Council which shall consist of 19 persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive services. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include persons who are outstanding in fields related to hospital, medical, and other health activities, persons who are representative of organizations and associations of professional personnel in the field of medicine, and at least one person who is representative of the general public. Each member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. A member shall not be eligible to serve continuously for more than two terms. Members of the Advisory Council, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Advisory Council shall meet as the Secretary deems necessary, but not less than annually.”

5 USC 101 et seq.

Per diem and travel expenses.

(b) Section 1867 (b) of such Act is amended to read as follows:

“(b) It shall be the function of the Advisory Council to provide advice and recommendations for the consideration of the Secretary on matters of general policy with respect to this title and title XIX.”

42 USC 1395, 1396.

(c) Section 1867 of such Act is further amended by striking out subsection (c).

AUTHORITY OF SECRETARY TO ADMINISTER OATHS IN MEDICARE PROCEEDINGS

SEC. 289. Section 1874 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 1395kk.

“(c) In the course of any hearing, investigation, or other proceeding that he is authorized to conduct under this title, the Secretary may administer oaths and affirmations.”

WITHHOLDING OF FEDERAL PAYMENTS UNDER MEDICAID WITH RESPECT TO CERTAIN HEALTH CARE FACILITIES

SEC. 290. Section 1903 of the Social Security Act is amended by adding after subsection (i) thereof the following new subsection:

Ante, pp. 1396, 1454.

“(j) (1) Notwithstanding the preceding provisions of this section, no payment shall be made to a State (except as provided under this

subsection) with respect to expenditures incurred by it for services provided by any institution during any period that an order for suspension of payment (as authorized by this subsection) is effective with respect to such institution.

"(2) The Secretary may issue a suspension of payment order with respect to any institution if—

42 USC 1395cc. "(A) such institution (i) does not (at the time such order is issued) have in effect an agreement with the Secretary which is entered into pursuant to section 1866; and (ii) did (prior to the time such order is issued) have in effect such an agreement; and

42 USC 1395. "(B) (i) the Secretary has been unable to collect (or make satisfactory arrangement for the collection of) amounts due on account of overpayments made to such institution under title XVIII; or

"(ii) the Secretary has been unable to obtain from such institution the data and information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under title XVIII.

Notice. "(3) Whenever the Secretary issues any order for suspension of payment under this subsection with respect to any institution, he shall submit a notice of such order to the single State agency (referred to in section 1902(a)(5)) of each State which he has reason to believe does or may utilize the services of such institution in providing medical assistance under a plan approved under this title.

42 USC 1396a. "(4) Any order for suspension of payment issued with respect to any institution under this subsection shall become effective, in the case of any state plan approved under this title, on the 60th day after the date the State agency (referred to in section 1902(a)(5)) administering or supervising the administration of such plan receives notice of such order submitted pursuant to paragraph (3). Any such order shall cease to be effective at such time as the Secretary is satisfied that the institution is participating in substantial negotiations which seek to remedy the conditions which gave rise to his order of suspension of payments, or that the amounts (referred to in paragraph (2)) are no longer due from such institution or that a satisfactory arrangement has been made for the payment by such institution of any such amounts. Upon the determination of the Secretary that any such order with respect to any such institution shall cease to be effective, he shall forthwith notify each State agency to which he has theretofore submitted notice under paragraph (3) with respect to such institution.

"(5) Whenever any order which has been issued by the Secretary under the preceding provisions of this subsection with respect to an institution ceases to be effective, any payment to which any State would (except for the preceding provisions of this subsection) have been entitled under this section on account of services provided by such institution shall be made to such State for the month in which such order ceases to be effective."

INTERMEDIATE CARE SERVICES IN STATES WHICH DO NOT HAVE A MEDICAID PROGRAM

85 Stat. 810.
42 USC 1396a
note.
42 USC 1396. SEC. 292. Section 4(d) of Public Law 92-223 (approved December 28, 1971) is amended by inserting immediately before the period at the end thereof the following: "except that the repeal made by subsection (c) shall not become effective in the case of any State, which on January 1, 1972 did not have in effect a State plan approved under title XIX of the Social Security Act, until the first day of the first month (occurring after such date) that such State does have in effect a State plan approved under such title".

REQUIRED INFORMATION RELATING TO EXCESS MEDICARE TAX PAYMENTS BY
RAILROAD EMPLOYEES

SEC. 293. (a) Section 6051(a) of the Internal Revenue Code of 1954 (relating to requirement of receipts for employees) is amended—

68A Stat. 747.
26 USC 6051.

(1) by striking out “section 3101, 3201, or 3402” in the matter preceding paragraph (1) and inserting in lieu thereof “section 3101 or 3402”;

(2) by inserting “and” at the end of paragraph (5), and by striking out the comma at the end of paragraph (6) and inserting in lieu thereof a period; and

(3) by striking out paragraphs (7) and (8).

(b) Section 6051(c) of such Code (relating to additional requirements) is amended by striking out “sections 3101 and 3201” in the second sentence and inserting in lieu thereof “section 3101”.

(c) Section 6051 of such Code (relating to receipts for employees) is amended by adding at the end thereof the following new subsection:

“(e) RAILROAD EMPLOYEES.—

“(1) ADDITIONAL REQUIREMENT.—Every person required to deduct and withhold tax under section 3201 from an employee shall include on or with the statement required to be furnished such employee under subsection (a) a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101(b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101(b).

“(2) INFORMATION TO BE SUPPLIED TO EMPLOYEES.—Each person required to deduct and withhold tax under section 3201 during any year from an employee who has also received wages during such year subject to the tax imposed by section 3101(b) shall, upon request of such employee, furnish to him a written statement showing—

“(A) the total amount of compensation with respect to which the tax imposed by section 3201 was deducted,

“(B) the total amount deducted as tax under section 3201, and

“(C) the portion of the total amount deducted as tax under section 3201 which is for financing the cost of hospital insurance under part A of title XVIII of the Social Security Act.”

(d) The amendments made by this section shall apply in respect to remuneration paid after December 31, 1971.

42 USC 1395c.
Effective date.

APPOINTMENT AND CONFIRMATION OF ADMINISTRATOR OF SOCIAL AND
REHABILITATION SERVICE

SEC. 294. Appointments made on or after the date of enactment of this Act to the office of Administrator of the Social and Rehabilitation Service, within the Department of Health, Education, and Welfare, shall be made by the President, by and with the advice and consent of the Senate.

REPEAL OF SECTION 1903(b)(1)

SEC. 295. Section 1903(b)(1) of the Social Security Act is repealed.

42 USC 1396b.

COVERAGE UNDER MEDICAID OF INTERMEDIATE CARE FURNISHED IN MENTAL
AND TUBERCULOSIS INSTITUTIONS

SEC. 297. (a) Section 1905(a)(14) of the Social Security Act is amended to read as follows:

42 USC 1396d.

Effective date.

“(14) inpatient hospital services, skilled nursing home services, and intermediate care facility services for individuals 65 years of age or over in an institution for tuberculosis or mental diseases;”
 (b) The amendment made by this section shall apply with respect to services furnished after December 31, 1972.

INDEPENDENT REVIEW OF INTERMEDIATE CARE FACILITY PATIENTS

85 Stat. 809.
42 USC 1396a.

SEC. 298. Section 1902(a)(31)(A) of the Social Security Act, as added by Public Law 92-223, is amended by striking out the phrase “which provides more than a minimum level of health care services.”

INTERMEDIATE CARE, MAINTENANCE OF EFFORT IN PUBLIC INSTITUTIONS

42 USC 1396d.

SEC. 299. Section 1905(d)(3) of the Social Security Act, as added by Public Law 92-223, is amended to read as follows:

“(3) the State or political subdivision responsible for the operation of such institution has agreed that the non-Federal expenditures in any calendar quarter prior to January 1, 1975, with respect to services furnished to patients in such institution (or distinct part thereof) in the State will not, because of payments made under this title, be reduced below the average amount expended for such services in such institution in the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its plan approved under this title.”

DISCLOSURE OF OWNERSHIP OF OPERATIONS OF INTERMEDIATE CARE FACILITIES

SEC. 299A. Section 1902(a) of the Social Security Act, as amended by sections 236, 239, and 255 of this Act, is further amended—

- (1) by striking out “and” at the end of paragraph (33);
- (2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof “; and”; and
- (3) by inserting after paragraph (34) the following new paragraph:

“(35) effective January 1, 1973, provide that any intermediate care facility receiving payments under such plan must supply to the licensing agency of the State full and complete information as to the identity (A) of each person having (directly or indirectly) an ownership interest of 10 per centum or more in such intermediate care facility, (B) in case an intermediate care facility is organized as a corporation, of each officer and director of the corporation, and (C) in case an intermediate care facility is organized as a partnership, of each partner; and promptly report any changes which would affect the current accuracy of the information so required to be supplied.”

TREATMENT IN MENTAL HOSPITALS FOR INDIVIDUALS UNDER AGE 21

SEC. 299B. (a) Section 1905(a) of the Social Security Act is amended—

- (1) by striking the word “and” in paragraph (15);
- (2) by redesignating paragraph (15) as paragraph (17);
- (3) by redesignating paragraph (16) as paragraph (15);
- (4) by inserting after paragraph (15) the following new paragraph:

"(16) effective January 1, 1973, inpatient psychiatric hospital services for individuals under 21, as defined in subsection (e);".

(b) Section 1905 of such Act, as amended by sections 212(a), 247(b) and 275(e) of this Act, is further amended by adding after subsection (g) the following new subsection:

Ante, p. 1452.

"(h) (1) For purposes of paragraph (16) of subsection (a), the term 'inpatient psychiatric hospital services for individuals under age 21' includes only—

Definition.

"(A) inpatient services which are provided in an institution which is accredited as a psychiatric hospital by the Joint Commission on Accreditation of Hospitals;

"(B) inpatient services which, in the case of any individual, involves active treatment (i) which meets such standards as may be prescribed pursuant to title XVIII in regulations by the Secretary, and (ii) which a team, consisting of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof, has determined are necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such services are necessary, to the extent that eventually such services will no longer be necessary; and

42 USC 1395.

"(C) inpatient services which, in the case of any individual, are provided prior to (A) the date such individual attains age 21, or (B) in the case of an individual who was receiving such services in the period immediately preceding the date on which he attained age 21, (i) the date such individual no longer requires such services, or (ii) if earlier, the date such individual attains age 22;

"(2) Such term does not include services provided during any calendar quarter under the State plan of any State if the total amount of the funds expended, during such quarter, by the State (and the political subdivisions thereof) from non-Federal funds for inpatient services included under paragraph (e) (1), and for active psychiatric care and treatment provided on an outpatient basis for eligible mentally ill children, is less than the average quarterly amount of the funds expended, during the 4-quarter period ending December 31, 1971, by the State (and the political subdivisions thereof) from non-Federal funds for such services."

(c) Section 1905(a) is further amended by striking out, in the part which follows paragraph (17) (as redesignated by subsection (a) of this section), "except that" and inserting in lieu thereof "except as otherwise provided in paragraph (16);".

PUBLIC DISCLOSURE OF INFORMATION CONCERNING SURVEY REPORTS OF AN INSTITUTION

SEC. 299D. (a) Section 1864(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Within 90 days following the completion of each survey of any health care facility, laboratory, clinic, agency, or organization by the appropriate State or local agency described in the first sentence of this subsection, the Secretary shall make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (1) the statutory conditions of participation imposed under this title and (2) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization."

Ante, pp. 1452-1454.

Ante, p. 1460.

(b) Section 1902(a) of the Social Security Act, as amended by sections 236, 239, 255, and 299A of this Act, is further amended—

- (1) by striking out “and” at the end of paragraph (35);
- (2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof “; and”; and
- (3) by inserting after paragraph (36) the following new paragraph:

“(37) provide that within 90 days following the completion of each survey of any health care facility, laboratory, agency, clinic, or organization, by the appropriate State agency described in paragraph (9), such agency shall (in accordance with regulations of the Secretary) make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (A) the statutory conditions of participation imposed under this title, and (B) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization.

Effective date.

(c) The provisions of this section shall be effective beginning January 1, 1973, or within 6 months following the enactment of this Act, whichever is later.

FAMILY PLANNING SERVICES MANDATORY UNDER MEDICAID

Ante, p. 1428.

SEC. 299E. (a) Section 1903(a) of the Social Security Act, as amended by sections 235 and 249B of this Act, is further amended by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

“(5) an amount equal to 90 per centum of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the plan) which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of family planning services and supplies;”.

79 Stat. 351;
81 Stat. 929.
42 USC 1396d.

(b) Section 1905(a) (4) of the Social Security Act is amended by adding after clause (B) the following: “and (C) family planning services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies;”.

85 Stat. 803.
42 USC 602.

(c) Section 402(a) (15) (B) of such Act is amended, effective January 1, 1973, (1) by adding after “in all appropriate cases” the following: “(including minors who can be considered to be sexually active)”, and (2) by adding after “family planning services are offered them” the following: “and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services”.

49 Stat. 628;
85 Stat. 805.
42 USC 603.

(d) Section 403 of such Act is amended by adding at the end thereof the following new sections:

“(e) Notwithstanding any other provision of subsection (a), with respect to expenditures during any calendar quarter beginning after December 31, 1972 (as found necessary by the Secretary for the proper and efficient administration of the plan) which are attributable to the offering, arranging, and furnishing, directly or on a contract basis, of family planning services and supplies, the amount payable to any State under this part shall be 90 per centum of such expenditures.

"(f) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under section 403(g)) of such amount if such State—

Infra.

"(1) in the immediately preceding fiscal year failed to carry out the provisions of section 402(a)(15)(B) as pertain to requiring the offering and arrangement for provision of family planning services; or

Ante, p. 1462.

"(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of section 402(a)(15)(B) of the Social Security Act with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part."

PENALTY FOR FAILURE TO PROVIDE CHILD HEALTH SCREENING SERVICES UNDER MEDICAID

SEC. 299F. Section 403 of the Social Security Act is amended by adding at the end thereof the following:

"(g) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1974, be reduced by 1 per centum (calculated without regard to any reduction under section 403(f)) of such amount if such State fails to—

Supra.

"(1) inform all families in the State receiving aid to families with dependent children under the plan of the State approved under this part of the availability of child health screening services under the plan of such State approved under title XIX,

Ante, p. 1426.

"(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

"(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services."

CHRONIC RENAL DISEASE CONSIDERED TO CONSTITUTE DISABILITY

SEC. 299I. Effective with respect to services provided on and after July 1, 1973, section 226 of the Social Security Act (as amended by section 201(b)(5) of this Act) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

Effective date.

"(e) Notwithstanding the foregoing provisions of this section, every individual who—

Ante, p. 1372.

"(1) has not attained the age of 65;

"(2) (A) is fully or currently insured (as such terms are defined in section 214 of this Act), or (B) is entitled to monthly insurance benefits under title II of this Act, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of this Act; and

Ante, p. 1341.
42 USC 401.

"(3) is medically determined to have chronic renal disease and who requires hemodialysis or renal transplantation for such disease;

42 USC 1395.

shall be deemed to be disabled for purposes of coverage under parts A and B of Medicare subject to the deductible, premium, and copayment provisions of title XVIII.

"(f) Medicare eligibility on the basis of chronic kidney failure shall begin with the third month after the month in which a course of renal dialysis is initiated and would end with the twelfth month after the month in which the person has a renal transplant or such course of dialysis is terminated.

"(g) The Secretary is authorized to limit reimbursement under Medicare for kidney transplant and dialysis to kidney disease treatment centers which meet such requirements as he may by regulation prescribe: *Provided*, That such requirements must include at least requirements for a minimal utilization rate for covered procedures and for a medical review board to screen the appropriateness of patients for the proposed treatment procedures."

ELIMINATION OF COINSURANCE PAYMENT WITH RESPECT TO HOME HEALTH SERVICES UNDER PART B OF MEDICARE

Ante, p. 1411.

SEC. 299K. (a) Section 1833(a)(2) of the Social Security Act is amended by striking out "80 percent" and inserting in lieu thereof "with respect to home health services, 100 percent, and with respect to other services, 80 percent."

Effective date.

(b) The amendment made by subsection (a) shall apply to services furnished by home health agencies in accounting periods beginning after December 31, 1972.

CERTIFICATION OF INTERMEDIATE CARE FACILITIES AND SKILLED NURSING FACILITIES LOCATED ON AN INDIAN RESERVATION

85 Stat. 809.
42 USC 1396d.

SEC. 299L. (a) Section 1905(c) of the Social Security Act, as added by Public Law 92-223, is amended by adding after the penultimate sentence thereof the following: "The term 'intermediate care facility' also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of clauses (2) and (3) of this subsection and providing the care and services required under clauses (1)."

"Skilled nursing facility."
Ante, p. 1452.

(b) Section 1905 of the Social Security Act, as amended by this Act, is amended by adding at the end thereof the following new subsection:

42 USC 1395x.

"(h) For purposes of this title, the term 'skilled nursing facility' also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as being a qualified skilled nursing facility by meeting the requirements of section 1861(j)."

DETERMINATIONS AND APPEALS

79 Stat. 330.
42 USC 1395ff.

SEC. 299O. (a) Section 1869(b) of the Social Security Act is amended to read as follows:

"(b)(1) Any individual dissatisfied with any determination under subsection (a) as to—

42 USC 426.

79 Stat. 333;

81 Stat. 854.

42 USC 426a.

42 USC 1395j.

Ante, p. 1374.

42 USC 1395c.

"(A) whether he meets the conditions of section 226 of this Act or section 103 of the Social Security Amendments of 1965, or

"(B) whether he is eligible to enroll and has enrolled pursuant to the provisions of part B of this title, or section 1818, or section 1819, or

"(C) the amount of benefits under part A (including a determination where such amount is determined to be zero)

shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

42 USC 405.

"(2) Notwithstanding the provisions of subparagraph (C) of paragraph (1) of this subsection, a hearing shall not be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than \$100; nor shall judicial review be available to an individual by reason of such subparagraph (C) if the amount in controversy is less than \$1,000."

(b)(1) The provisions of subparagraphs (A) and (B) of section 1869(b)(1) of the Social Security Act, as amended by subsection (a) of this section, shall be effective on the date of enactment of this Act.

Effective dates.

(2) The provisions of paragraph (2) and of subparagraph (C) of paragraph (1) of section 1869(b) of the Social Security Act, as amended by subsection (a) of this section, shall be effective with respect to any claims under part A of title XVIII of such Act, filed—

42 USC 1395c.

(A) in or after the month in which this Act is enacted, or

(B) before the month in which this Act is enacted, but only if a civil action with respect to a final decision of the Secretary of Health, Education, and Welfare on such claim has not been commenced under such section 1869(b) before such month.

TITLE III—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

ESTABLISHMENT OF PROGRAM

SEC. 301. Effective January 1, 1974, title XVI of the Social Security Act is amended to read as follows:

Effective date.

"TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

76 Stat. 197;
81 Stat. 896.
42 USC 1381.

"PURPOSE; APPROPRIATIONS

"SEC. 1601. For the purpose of establishing a national program to provide supplemental security income to individuals who have attained age 65 or are blind or disabled, there are authorized to be appropriated sums sufficient to carry out this title.

"BASIC ELIGIBILITY FOR BENEFITS

"SEC. 1602. Every aged, blind, or disabled individual who is determined under part A to be eligible on the basis of his income and resources shall, in accordance with and subject to the provisions of this title, be paid benefits by the Secretary of Health, Education, and Welfare.

"PART A—DETERMINATION OF BENEFITS

"ELIGIBILITY FOR AND AMOUNT OF BENEFITS

"Definition of Eligible Individual

"SEC. 1611. (a) (1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

"(A) whose income, other than income excluded pursuant to section 1612(b), is at a rate of not more than \$1,560 for the calendar year 1974 or any calendar year thereafter, and

"(B) whose resources, other than resources excluded pursuant to section 1613(a), are not more than (i) in case such individual has a spouse with whom he is living, \$2,250, or (ii) in case such individual has no spouse with whom he is living, \$1,500, shall be an eligible individual for purposes of this title.

"(2) Each aged, blind, or disabled individual who has an eligible spouse and—

"(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1612(b), is at a rate of not more than \$2,340 for the calendar year 1974, or any calendar year thereafter, and

"(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1613(a), are not more than \$2,250, shall be an eligible individual for purposes of this title.

"Amounts of Benefits

"(b) (1) The benefit under this title for an individual who does not have an eligible spouse shall be payable at the rate of \$1,560 for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual.

"(2) The benefit under this title for an individual who has an eligible spouse shall be payable at the rate of \$2,340 for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual and spouse.

"Period for Determination of Benefits

"(c) (1) An individual's eligibility for benefits under this title and the amount of such benefits shall be determined for each quarter of a calendar year except that, if the initial application for benefits is filed in the second or third month of a calendar quarter, such determinations shall be made for each month in such quarter. Eligibility for and the amount of such benefits for any quarter shall be redetermined at such time or times as may be provided by the Secretary.

"(2) For purposes of this subsection an application shall be considered to be effective as of the first day of the month in which it was actually filed.

"Special Limits on Gross Income

"(d) The Secretary may prescribe the circumstances under which, consistently with the purposes of this title, the gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this title. For purposes of this subsection, the term 'gross income' has the same

meaning as when used in chapter 1 of the Internal Revenue Code of 1954.

26 USC 1 et
seq.

"Limitation on Eligibility of Certain Individuals

"(e) (1) (A) Except as provided in subparagraph (B), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

"(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

42 USC 1396.

"(i) at a rate not in excess of \$300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

"(ii) at a rate not in excess of the sum of the applicable rate specified in subsection (b) (1) and the rate of \$300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home, or facility throughout such month; and

"(iii) at a rate not in excess of \$600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

"(2) No person shall be an eligible individual or eligible spouse for purposes of this title if, after notice to such person by the Secretary that it is likely that such person is eligible for any payments of the type enumerated in section 1612(a) (2) (B), such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

"(3) (A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a) (3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

"(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this title. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

Report to Con-
gress.

"Suspension of Payments to Individuals Who Are Outside the United States

"(f) Notwithstanding any other provision of this title, no individual shall be considered an eligible individual for purposes of this title for any month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this title with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

"Certain Individuals Deemed To Meet Resources Test

"(g) In the case of any individual or any individual and his spouse (as the case may be) who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, the resources of such individual or such individual and his spouse shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that the resources of such individual or individual and his spouse (as the case may be) does not exceed the maximum amount of resources, as specified in the State plan (above referred to, and as in effect in October 1972) under which he or they were entitled to aid or assistance for the month of December 1972.

42 USC 301,
1201, 1351.
Ante, p. 1465.

"Certain Individuals Deemed To Meet Income Test

"(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who is blind (as that term is defined under a State plan approved under title X or XVI as in effect in October 1972) and who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title X or XVI, there shall be disregarded an amount equal to the greater of the amounts determined as follows—

"(1) the maximum amount of any earned or unearned income which could have been disregarded under the State plan (above referred to, and as in effect in October 1972), or

"(2) the amount which would be required to be disregarded under section 1612 without application of this subsection.

"INCOME

"Meaning of Income

"SEC. 1612. (a) For purposes of this title, income means both earned income and unearned income; and—

"(1) earned income means only—

"(A) wages as determined under section 203(f)(5)(C); and

"(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a)(10), and the last par-

42 USC 403.

Ante, p. 1353.

agraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

“(2) unearned income means all other income, including—

“(A) support and maintenance furnished in cash or kind; except that in the case of any individual (and his eligible spouse, if any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33 $\frac{1}{3}$ percent in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph;

“(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation and pensions, workmen's compensation payments, old-age, survivors, and disability insurance benefits, railroad retirement annuities and pensions, and unemployment insurance benefits;

“(C) prizes and awards;

“(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or \$1,500, whichever is less;

“(E) gifts (cash or otherwise), support and alimony payments, and inheritances; and

“(F) rents, dividends, interest, and royalties.

“Exclusions From Income

“(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

“(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

“(2) the first \$240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

“(3) (A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed \$60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed \$30 in such quarter;

“(4) (A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding para-

graphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

Post, p. 1488.

"(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

"(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

"(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

"(6) assistance described in section 1616(a) which is based on need and furnished by any State or political subdivision of a State;

"(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

"(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

"(9) if such individual is a child one-third of any payment for his support received from an absent parent; and

"(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency.

"RESOURCES

"Exclusions From Resources

"SEC. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

"(1) the home (including the land that appertains thereto), to the extent that its value does not exceed such amount as the Secretary determines to be reasonable;

"(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable;

"(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;

"(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the

Secretary, as may be necessary for the fulfillment of such plan; and

"(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 7(h) and section 8(c) of the Alaska Native Claims Settlement Act.

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is \$1,500 or less, no part of the value of any such policy shall be taken into account.

85 Stat. 691.
43 USC 1606,
1607.

"Disposition of Resources

"(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

"MEANING OF TERMS

"Aged, Blind, or Disabled Individual

"SEC. 1614. (a) (1) For purposes of this title, the term 'aged, blind, or disabled individual' means an individual who—

"(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

"(B) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a) (7) or section 212(d) (5) of the Immigration and Nationality Act).

"(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

"(3) (A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity). An individual shall also be

79 Stat. 912.
66 Stat. 182.
8 USC 1153,
1182.

42 USC 1201,
1381.

42 USC 1351,
1381.

considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973, so long as he is continuously disabled as so defined.

Definition.

“(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), ‘work which exists in the national economy’ means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

“(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

“(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (4), shall be found not to be disabled.

“(4) (A) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term ‘services’ means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

Definition.

“(B) The term ‘period of trial work’, with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

“(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

“(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

“(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

“(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).

“Eligible Spouse

“(b) For purposes of this title, the term ‘eligible spouse’ means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who has not been living apart from such other aged, blind, or disabled individual for more than six months. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an ‘eligible individual’ within the meaning of section 1611(a).

“Definition of Child

“(c) For purposes of this title, the term ‘child’ means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

“Determination of Marital Relationships

“(d) In determining whether two individuals are husband and wife for purposes of this title, appropriate State law shall be applied; except that—

“(1) if a man and women have been determined to be husband and wife under section 216(h) (1) for purposes of title II they shall be considered (from and after the date of such determination or the date of their application for benefits under this title, whichever is later) to be husband and wife for purposes of this title, or

42 USC 401.

“(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this title notwithstanding any other provision of this section.

“United States

“(e) For purposes of this title, the term ‘United States’, when used in a geographical sense, means the 50 States and the District of Columbia.

“Income and Resources of Individuals Other Than Eligible Individuals and Eligible Spouses

“(f) (1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual’s income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

“(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 21, such individual’s income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual,

whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

“REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

“SEC. 1615. (a) In the case of any blind or disabled individual who—

“(1) has not attained age 65, and

“(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

“(b) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act; and the Secretary is authorized to pay to the State agency administering or supervising the administration of such State plan the costs incurred in the provision of such services to individuals so referred.

“(c) No individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept vocational rehabilitation services for which he is referred under subsection (a).

“OPTIONAL STATE SUPPLEMENTATION

“SEC. 1616. (a) Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this title or who would but for their income be eligible to receive benefits under this title, as assistance based on need in supplementation of such benefits (as determined by the Secretary), shall be excluded under section 1612(b)(6) in determining the income of such individuals for purposes of this title and the Secretary and such State may enter into an agreement which satisfies subsection (b) under which the Secretary will, on behalf of such State (or subdivision) make such supplementary payments to all such individuals.

“(b) Any agreement between the Secretary and a State entered into under subsection (a) shall provide—

“(1) that such payments will be made (subject to subsection (c)) to all individuals residing in such State (or subdivision) who are receiving benefits under this title, and

“(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary (subject to subsection (c)) to achieve efficient and effective administration of both the program which he conducts under this title and the optional State supplementation.

“(c) (1) Any State (or political subdivision) making supplementary payments described in subsection (a) may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Secretary under such subsection, a residence requirement which excludes individuals who have resided in the State (or political subdivision) for less than a minimum period prior to application for such payments.

“(2) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a), may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

“(d) Any State which has entered into an agreement with the Secretary under this section which provides that the Secretary will, on behalf of the State (or political subdivision), make the supplementary payments to individuals who are receiving benefits under this title (or who would but for their income be eligible to receive such benefits), shall, at such times and in such installments as may be agreed upon between the Secretary and such State, pay to the Secretary an amount equal to the expenditures made by the Secretary as such supplementary payments.

“PART B—PROCEDURAL AND GENERAL PROVISIONS

“PAYMENTS AND PROCEDURES

“Payment of Benefits

“SEC. 1631. (a) (1) Benefits under this title shall be paid at such time or times and in such installments as will best effectuate the purposes of this title, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed \$10).

“(2) Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse). Notwithstanding the provisions of the preceding sentence, in the case of any individual or eligible spouse referred to in section 1611(e) (3) (A), the Secretary shall provide for making payments of the benefit to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse).

“(3) The Secretary may by regulation establish ranges of incomes within which a single amount of benefits under this title shall apply.

“(4) The Secretary—

“(A) may make to any individual initially applying for benefits under this title who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding \$100; and

“(B) may pay benefits under this title to an individual applying for such benefits on the basis of disability for a period not exceeding 3 months prior to the determination of such individual's disability, if such individual is presumptively disabled and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b).

“(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1614(a) (2)) or disability (as determined under section 1614(a) (3)), and who ceases to be blind or to be under such disability,

shall continue (so long as such individual is otherwise eligible) through the second month following the month in which such blindness or disability ceases.

"Overpayments and Underpayments

"(b) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this title.

"Hearings and Review

"(c) (1) The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within thirty days after notice of such determination is received.

"(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves the existence of a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

42 USC 405. "(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205; except that the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by any court.

"Procedures; Prohibitions of Assignments; Representation of Claimants

42 USC 407. "(d) (1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

42 USC 401.

"(2) To the extent the Secretary finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.

80 Stat. 381;
81 Stat. 54.
5 USC 551.
Rules and regulations.

"(3) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show

that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph for which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.

Offenses and
penalties.

"Applications and Furnishing of Information

"(e)(1)(A) The Secretary shall, subject to subparagraph (B), prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this title.

Requirements.

"(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this title will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct.

"(2) In case of the failure by any individual to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this title as required by the Secretary under paragraph (1), or delay by any individual in submitting a report as so required, the Secretary (in addition to taking any other action he may consider appropriate under paragraph (1)) shall reduce any benefits which may subsequently become payable to such individual under this title by—

Benefits, reduction.

"(A) \$25 in the case of the first such failure or delay,

"(B) \$50 in the case of the second such failure or delay, and

"(C) \$100 in the case of the third or a subsequent such failure or delay,

except where the individual was without fault or good cause for such failure or delay existed.

"Furnishing of Information by Other Agencies

"(f) The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

"PENALTIES FOR FRAUD

"SEC. 1632. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any other individual in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

"(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

"ADMINISTRATION

"SEC. 1633. The Secretary may make such administrative and other arrangements (including arrangements for the determination of blindness and disability under section 1614(a) (2) and (3) in the same manner and subject to the same conditions as provided with respect to disability determinations under section 221) as may be necessary or appropriate to carry out his functions under this title.

42 USC 421.

"DETERMINATIONS OF MEDICAID ELIGIBILITY

"SEC. 1634. The Secretary may enter into an agreement with any State which wishes to do so under which he will determine eligibility for medical assistance in the case of aged, blind, or disabled individuals under such State's plan approved under title XIX. Any such agreement shall provide for payments by the State, for use by the Secretary in carrying out the agreement, of an amount equal to one-half of the cost of carrying out the agreement, but in computing such cost with respect to individuals eligible for benefits under this title, the Secretary shall include only those costs which are additional to the costs incurred in carrying out this title."

42 USC 1396.

Effective date.

49 Stat. 620;

81 Stat. 921.

42 USC 1305.

SEC. 302. The Social Security Act is amended, effective January 1, 1974, by adding after title V the following new title:

"TITLE VI—GRANTS TO STATES FOR SERVICES TO THE AGED, BLIND, OR DISABLED

"APPROPRIATION

"SEC. 601. For the purpose of encouraging each State, as far as practicable under the conditions in such State, to furnish rehabilitation

and other services to help needy individuals who are 65 years of age or over, are blind, or are disabled to attain or retain capability for self-support or self-care, there is hereby authorized to be appropriated for each fiscal year, subject to section 1130, a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for services to the aged, blind, or disabled.

Ante, p. 945.

"STATE PLANS FOR SERVICES TO THE AGED, BLIND, OR DISABLED

"SEC. 602. (a) A State plan for services to the aged, blind, or disabled, must—

"(1) except to the extent permitted by the Secretary, provide that it shall be in effect in all political subdivisions of the State, and if administered by them, be mandatory upon them;

"(2) provide for financial participation by the State;

"(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

"(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services under the plan and in assisting any advisory committees established by the State agency;

"(5) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(6) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

"(7) provide, if the plan includes services to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

"(8) provide a description of the services which the State agency makes available under the plan including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

"(9) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

"(10) include reasonable standards, consistent with the objectives of this title, for determining eligibility for and the extent of services under the plan;

"(11) if the State plan includes services to individuals 65 years of age or older who are patients in institutions for mental diseases—

"(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

"(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution; and

"(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for persons receiving services under the State plan who are 65 years of age or older and who would otherwise need care in such institutions; for services referred to in section 603(a)(1)(A)(i) and (ii) which are appropriate for such persons receiving services and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such persons receiving services and such patients will be effectively carried out;

"(12) if the State plan includes services to individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing homes, and other alternatives to care in public institutions for mental diseases.

Notwithstanding paragraph (3), if on October 1, 1972, the State agency which administered or supervised the administration of the plan of such State approved under title X (or so much of the plan of such State approved under title XVI as applies to the blind) was different from the State agency which administered or supervised the administration of the plan of such State approved under title I and the State agency which administered or supervised the administration of the plan of such State approved under title XIV (or so much of the plan of such State approved under title XVI as applies to the aged and disabled), the State agency which administered or supervised the administration of such plan approved under title X (or so much of the plan of such State approved under title XVI as applies to the blind) may be designated to administer or supervise the administration of the portion of the State plan for services to the aged, blind, or disabled which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administra-

42 USC 1201.

Ante, p. 1465.

42 USC 301.

42 USC 1351.

tion of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title.

“(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for services under the plan—

“(1) an age requirement of more than sixty-five years; or

“(2) any residence requirement which excludes any individual who resides in the State; or

“(3) any citizenship requirement which excludes any citizen of the United States.

“PAYMENTS TO STATES

“SEC. 603. (a) From the sums appropriated therefor, the Secretary shall, subject to section 1130, pay to each State which has a plan approved under this title, for each quarter—

Ante, p. 945.

“(1) in the case of any State whose State plan approved under section 602 meets the requirements of subsection (c)(1), an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

“(A) 75 per centum of so much of such expenditures as are for—

“(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of supplementary security income benefits under title XVI to help them attain or retain capability for self-support or self-care, or

Ante, p. 1465.

“(ii) other services, specified by the Secretary, as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

“(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of supplementary security income benefits under title XVI, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

“(iv) the training of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

“(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of supplementary security income benefits under title XVI, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such benefits; plus

“(C) one-half of the remainder of such expenditures. The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

“(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

“(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

“(2) in the case of any State whose State plan approved under section 602 does not meet the requirements of subsection (c) (1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (1) and provided in accordance with the provisions of such paragraph.

“(b) (1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

“(2) The Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased

to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

“(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

“(c) (1) In order for a State to qualify for payments under paragraph (1) of subsection (a), its State plan approved under section 602 must provide that the State agency shall make available to applicants for and recipients of supplementary security income benefits under title XVI at least those services to help them attain or retain capability for self-support or self-care which are prescribed by the Secretary.

Ante, p. 1465.

“(2) In the case of any State whose State plan included a provision meeting the requirements of paragraph (1), but with respect to which the Secretary finds, after reasonable notice and opportunity for hearing to the State agency, administering or supervising the administration of such plan, that—

“(A) the provision has been so changed that it no longer complies with the requirements of paragraph (1), or

“(B) in the administration of the plan there is a failure to comply substantially with such provision, the Secretary shall notify such State agency that further payments will not be made to the State under paragraph (1) of subsection (a) until he is satisfied that there will no longer be any such failure to comply. Until the Secretary is so satisfied further payments with respect to the administration of such State plan shall not be made under paragraph (1) of subsection (a) but shall instead be made, subject to the other provisions of this title, under paragraph (2) of such subsection.

“(d) Notwithstanding the preceding provisions of this section, the amount determined under such provisions for any State for any quarter which is attributable to expenditures with respect to individuals 65 years of age or older who are patients in institutions for mental diseases shall be paid only to the extent that the State makes a showing satisfactory to the Secretary that total expenditures in the State from Federal, State, and local sources for mental health services (including payments to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs for such quarter exceed the average of the total expenditures in the State from such sources for such services under such programs for each quarter of the fiscal year ending June 30, 1965. For purposes of this subsection, expenditures for such services for each quarter in the fiscal year ending June 30, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the first determination by him under this subsection for such State; and expenditures for such services for any quarter beginning after December 31, 1965, in the case of any State shall be determined on the basis of the latest data, satisfactory to the Secretary, available to him at the time of the determination under this subsection for such State for such quarter; and determinations so made shall be conclusive for purposes of this subsection.

"OPERATION OF STATE PLANS

"SEC. 604. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

"(1) that the plan no longer complies with the provisions of section 602; or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"DEFINITION

"SEC. 605. For purposes of this title, the term 'services to the aged, blind, or disabled' means services (including but not limited to the services referred to in section 603(a)(1)(A) and (B)) provided for or on behalf of needy individuals who are 65 years of age or older or are blind, or are disabled."

REPEAL OF TITLES I, X, AND XIV OF THE SOCIAL SECURITY ACT

Effective date.
42 USC 301,
1201, 1351.

SEC. 303. (a) Effective January 1, 1974, titles I, X, and XIV of the Social Security Act are repealed.

(b) The amendments made by sections 301 and 302 and the repeals made by subsection (a) shall not be applicable in the case of Puerto Rico, Guam, and the Virgin Islands.

64 Stat. 47.
25 USC 639.

(c) Section 9 of the Act of April 19, 1950, is repealed effective January 1, 1974.

PROVISION FOR DISREGARDING OF CERTAIN INCOME IN DETERMINING NEED FOR AID TO THE AGED, BLIND, OR DISABLED FOR ASSISTANCE

Effective date.
84 Stat. 2038;
85 Stat. 810.
42 USC 415
note.

SEC. 304. Effective upon the enactment of this Act, section 1007 of the Social Security Amendments of 1969 is amended by striking out "and before January 1973" and inserting in lieu thereof "and before January 1974".

ADVANCES FROM OASI TRUST FUND FOR ADMINISTRATIVE EXPENSES

79 Stat. 338.
42 USC 401.

SEC. 305. (a) Section 201(g)(1)(A) of the Social Security Act is amended—

Ante, p. 1465.
42 USC 1395.

(1) by striking out "this title and title XVIII" wherever it appears and inserting in lieu thereof "this title, title XVI, and title XVIII";

(2) by striking out "costs which should be borne by each of the Trust Funds" and inserting in lieu thereof "costs which should be borne by each of the Trust Funds and (with respect to title XVI) by the general revenues of the United States"; and

(3) by striking out "in order to assure that each of the Trust Funds bears" and inserting in lieu thereof "in order to assure that (after appropriations made pursuant to section 1601, and repayment to the Trust Funds from amounts so appropriated)

each of the Trust Funds and the general revenues of the United States bears?.

(b)(1) Sums appropriated pursuant to section 1601 of the Social Security Act shall be utilized from time to time, in amounts certified under the second sentence of section 201(g)(1)(A) of such Act, to repay the Trust Funds for expenditures made from such Funds in any fiscal year under section 201(g)(1)(A) of such Act (as amended by subsection (a) of this section) on account of the costs of administration of title XVI of such Act (as added by section 301 of this Act).

Ante, p. 1465.

Ante, p. 1484.

(2) If the Trust Funds have not theretofore been repaid for expenditures made in any fiscal year (as described in paragraph (1)) to the extent necessary on account of—

(A) expenditures made from such Funds prior to the end of such fiscal year to the extent that the amount of such expenditures exceeded the amount of the expenditures which would have been made from such Funds if subsection (a) had not been enacted,

(B) the additional administrative expenses, if any, resulting from the excess expenditures described in subparagraph (A), and

(C) any loss in interest to such Funds resulting from such excess expenditures and such administrative expenses,

in order to place each such Fund in the same position (at the end of such fiscal year) as it would have been in if such excess expenditures had not been made, the amendments made by subsection (a) shall cease to be effective at the close of the fiscal year following such fiscal year.

(3) As used in this subsection, the term "Trust Funds" has the meaning given it in section 201(g)(1)(A) of the Social Security Act.

(c) The provisions of this section shall become effective on the date of enactment of this Act.

Effective date.

DISREGARDING OF INCOME OF OASDI RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE

SEC. 306. In addition to the requirements imposed by law as a condition of approval of a State plan to provide aid or assistance in the form of money payments to individuals under title I, X, XIV, or XVI of the Social Security Act, there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual receiving aid or assistance for any month after October 1972, or, at the option of the State, September 1972, and before January 1974 who also receives in such month a monthly insurance benefit under title II of such Act which was increased as a result of the enactment of Public Law 92-336, the sum of the aid or assistance received by him for such month, plus the monthly insurance benefit received by him in such month (not including any part of such benefit which is disregarded under such plan), shall exceed the sum of the aid or assistance which would have been received by him for such month under such plan as in effect for October 1972, plus the monthly insurance benefit which would have been received by him in such month, by an amount equal to \$4 or (if less) to such increase in his monthly insurance benefit under such title II (whether such excess is brought about by disregarding a portion of such monthly insurance benefit or otherwise).

42 USC 301,
1201, 1351.
Ante, p. 1465.

42 USC 401.
Ante, p. 406.

TITLE IV—MISCELLANEOUS

LIMITATION ON FISCAL LIABILITY OF STATES FOR OPTIONAL STATE SUPPLEMENTATION

SEC. 401. (a)(1) The amount payable to the Secretary by a State for any fiscal year pursuant to its agreement or agreements under

Ante, p. 1474.

42 USC 301,
1201, 1351.
Ante, p. 1465.

section 1616 of the Social Security Act shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act (as defined in subsection (c) of this section).

(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

(B) the benefits under title XVI of the Social Security Act, plus income not excluded under section 1612(b) of such Act in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972.

Definitions.

(b) (1) For purposes of subsection (a), the term "adjusted payment level under the appropriate approved plan of a State as in effect for January 1972" means the amount of the money payment which an individual with no other income would have received under the plan of such State approved under title I, X, XIV, or XVI of the Social Security Act, as may be appropriate, and in effect for January 1972; except that the State may, at its option, increase such payment level with respect to any such plan by an amount which does not exceed the sum of—

(A) a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plan, and

(B) the bonus value of food stamps in such State for January 1972 (as defined in paragraph (3) of this subsection).

(2) For purposes of paragraph (1), the term "payment level modification" with respect to any State plan means that amount by which a State which for January 1972 made money payments under such plan to individuals with no other income which were less than 100 per centum of its standard of need could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972 under the plans of such State approved under titles I, X, XIV, and XVI of the Social Security Act.

(3) For purposes of paragraph (1), the term "bonus value of food stamps in a State for January 1972" (with respect to an individual) means—

(A) the face value of the coupon allotment which would have been provided to such an individual under the Food Stamp Act of 1964 for January 1972, reduced by

(B) the charge which such an individual would have paid for such coupon allotment,

if the income of such individual, for purposes of determining the charge it would have paid for its coupon allotment, had been equal to the adjusted payment level under the State plan (including any

payment level modification with respect to the plan adopted pursuant to paragraph (2) (but not including any amount under this paragraph)). The total face value of food stamps and the cost thereof in January 1972 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month.

(c) For purposes of this section, the term "non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of a State approved under titles I, X, XIV, and XVI of the Social Security Act" means the difference between—

(1) the total expenditures in such quarters under such plans for aid or assistance (expenditures authorized under section 1119 of such Act for repairing the home of an individual who was receiving aid or assistance under one of such plans (as such section was in effect prior to the enactment of this Act)), and

(2) the total of the amounts determined under sections 3, 1003, 1403, and 1603 of the Social Security Act, under section 1118 of such Act, and under section 9 of the Act of April 19, 1950, for such State with respect to such expenditures in such quarters.

Definition.

42 USC 301,
1201, 1351.
Ante, p. 1465.

81 Stat. 894.
42 USC 1319.

42 USC 303,
1203, 1353, 1383.
79 Stat. 423.
42 USC 1318.
Ante, p. 1484.

TRANSITIONAL ADMINISTRATIVE PROVISIONS

SEC. 402. In order for a State to be eligible for any payments pursuant to title IV, V, XVI, or XIX of the Social Security Act with respect to expenditures for any quarter in the fiscal year ending June 30, 1975, and for the purpose of providing an orderly transition from State to Federal administration of the Supplemental Security Income Program, such State shall enter into an agreement with the Secretary of Health, Education, and Welfare under which the State agencies responsible for administering or for supervising the administration of the plans approved under titles I, X, XIV, and XVI of the Social Security Act will, on behalf of the Secretary, administer all or such part or parts of the program established by section 301 of this Act, during such portion of the fiscal year ending June 30, 1975, as may be provided in such agreement.

42 USC 601, 701,
1396.

SAVINGS PROVISION REGARDING CERTAIN EXPENDITURES FOR SOCIAL SERVICES

SEC. 403. In the administration of section 1130 of the Social Security Act, the allotment of each State (as determined under subsection (b) of such section) for the fiscal year ending June 30, 1973, shall (notwithstanding any provision of such section 1130) be adjusted so that the amount of such allotment for such year consists of the sum of the following:

Ante, p. 945.

(1) the amount, not to exceed \$50,000,000, payable to the State (as determined without regard to such section 1130) with respect to the total expenditures incurred by the State for services (of the type, and under the programs to which the allotment, as determined under such subsection (b), is applicable) for the calendar quarter commencing July 1, 1972, plus

(2) an amount equal to three-fourths of the amount of the allotment of such State (as determined under such subsection (b), but without application of the provisions of this section):

Provided, however, That no State shall receive less under this section than the amount to which it would have been entitled otherwise under section 1130 of the Social Security Act.

CHANGE IN EXECUTIVE SCHEDULE—COMMISSIONER OF SOCIAL SECURITY

80 Stat. 463.

SEC. 404. (a) Section 5316 of title 5, United States Code (relating to positions at level V of the Executive Schedule), is amended by striking out:

“(51) Commissioner of Social Security, Department of Health, Education, and Welfare.”

Ante, p. 149.

(b) Section 5315 of title 5, United States Code (relating to positions at level IV of the Executive Schedule), is amended by adding at the end thereof the following:

“(97) Commissioner of Social Security, Department of Health, Education, and Welfare.”

Effective date.

(c) The amendments made by the preceding provisions of this section shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted.

SEPARATION OF SOCIAL SERVICES NOT REQUIRED

42 USC 302.

SEC. 405. (a) Section 2(a)(10)(C) of the Social Security Act is amended by inserting “(using whatever internal organizational arrangement it finds appropriate for this purpose)” immediately after “provide a description of the services (if any) which the State agency makes available”.

42 USC 1202.

(b) Section 1002(a)(13) of such Act is amended by inserting “(using whatever internal organizational arrangement it finds appropriate for this purpose)” immediately after “provide a description of the services (if any) which the State agency makes available”.

42 USC 1352.

(c) Section 1402(a)(12) of such Act is amended by inserting “(using whatever internal organizational arrangement it finds appropriate for this purpose)” immediately after “provide a description of the services (if any) which the State agency makes available”.

42 USC 1382.

(d) Section 1602(a)(10) of such Act is amended by inserting “(using whatever internal organizational arrangement it finds appropriate for this purpose)” immediately after “provide a description of the services (if any) which the State agency makes available”.

MANUALS AND POLICY ISSUANCES NOT REQUIRED WITHOUT CHARGE

SEC. 406. (a) Section 2(b) of the Social Security Act is amended by adding at the end thereof the following new sentence: “At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title.”

(b) Section 1002(b) of such Act is amended by adding immediately after the first sentence thereof the following new sentence: “At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title.”

(c) Section 1402(b) of such Act is amended by adding at the end thereof the following new sentence: “At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such

materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title."

(d) Section 1602(b) of such Act is amended by adding immediately after the first sentence thereof the following new sentence: "At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this title."

42 USC 1382.

EFFECTIVE DATE OF FAIR HEARING DECISION

SEC. 407. (a) Section 2(a)(4) is amended by—

42 USC 302.

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

(b) Section 1002(a)(4) is amended by—

42 USC 1202.

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

(c) Section 1402(a)(4) is amended by—

42 USC 1352.

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

(d) Section 1602(a)(4) is amended by—

(1) deleting "provide" and inserting in lieu thereof "provide (A)", and

(2) inserting immediately before the semicolon at the end thereof the following: ", and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing".

ABSENCE FROM STATE FOR MORE THAN 90 DAYS

SEC. 408. (a) Section 6(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides),

42 USC 306.

such term need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual."

42 USC 1206.

(b) Section 1006 of such Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides), such term need not include money payments to an individual who has been absent from such State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for 30 consecutive days in the case of such an individual who has maintained his residence in such State during such period or 90 consecutive days in the case of any other such individual."

42 USC 1355.

(c) Section 1405 of such Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides), such term need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual."

42 USC 1385.

(d) Section 1605(a) of such Act is amended by adding at the end thereof the following new sentence: "At the option of a State (if its plan approved under this title so provides), such term need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual."

RENT PAYMENTS TO PUBLIC HOUSING AGENCY

Ante, p. 1489.

SEC. 409. (a) Section 6(a) of the Social Security Act (as amended by section 554(a) of this Act) is further amended by—

(1) striking out "such term" in the last sentence thereof and inserting in lieu thereof "such term (i)", and

(2) adding immediately before the period at the end of such sentence the following: ", and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of assistance under such plan".

Supra.

(b) Section 1006 of such Act (as amended by section 554(b) of this Act) is further amended by—

(1) striking out "such term" in the last sentence thereof and inserting in lieu thereof "such term (i)", and

(2) adding immediately before the period at the end of such sentence the following: ", and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan".

(c) Section 1405 of such Act (as amended by section 554(c) of this Act) is further amended by—

Ante, p. 1490.

(1) striking out “such term” in the last sentence thereof and inserting in lieu thereof “such term (i)”, and

(2) adding immediately before the period at the end of such sentence the following: “, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan”.

(d) Section 1605(a) of such Act (as amended by section 554(d) of this Act) is further amended by—

(1) striking out “such term” in the last sentence thereof and inserting in lieu thereof “such term (i)”, and

(2) adding immediately before the period at the end of such sentence the following: “, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan”.

STATEWIDENESS NOT REQUIRED FOR SERVICES

SEC. 410. (a) Section 2(a) of the Social Security Act is amended by inserting “except to the extent permitted by the Secretary with respect to services,” before “provide” at the beginning of paragraph (1).

42 USC 302.

(b) Section 1002(a) of such Act is amended by inserting “except to the extent permitted by the Secretary with respect to services,” before “provide” at the beginning of clause (1).

42 USC 1202.

(c) Section 1402(a) of such Act is amended by inserting “except to the extent permitted by the Secretary with respect to services,” before “provide” at the beginning of clause (1).

42 USC 1352.

(d) Section 1602(a) of such Act is amended by inserting “except to the extent permitted by the Secretary with respect to services,” before “provide” at the beginning of paragraph (1).

42 USC 1382.

PROHIBITION AGAINST PARTICIPATION IN FOOD STAMP OR SURPLUS COMMODITIES PROGRAM BY PERSONS ELIGIBLE TO PARTICIPATE IN EMPLOYMENT OR ASSISTANCE PROGRAMS

SEC. 411. (a) Effective January 1, 1974, section 3(e) of the Food Stamp Act of 1964 is amended by adding at the end thereof the following new sentence: “No person who is eligible (or upon application would be eligible) to receive supplemental security income benefits under title XVI of such Act shall be considered to be a member of a household or an elderly person for purposes of this Act.”

Effective date.

84 Stat. 2048.

7 USC 2012.

(b) Section 3(h) of such Act is amended to read as follows:

78 Stat. 703.

“(h) The term ‘State agency’, with respect to any State, means the agency of State government which is designated by the Secretary for purposes of carrying out this Act in such State.”

(c) Section 10(c) of such Act is amended by striking out the first sentence.

84 Stat. 2051.

7 USC 2019.

(d) Clause (2) of the second sentence of section 10(e) of such Act is amended by striking out “used by them in the certification of applicants for benefits under the federally aided public assistance programs” and inserting in lieu thereof the following: “prescribed by the Secretary in the regulations issued pursuant to this Act”.

(e) Section 10(e) of such Act is further amended by striking out the third sentence.

84 Stat. 2052.
7 USC 2023.

68 Stat. 458;
84 Stat. 199.
7 USC 1431.

Effective date.

- (f) Section 14 of such Act is amended by striking out subsection (e).
(g) Effective January 1, 1974, section 416 of the Act of October 31, 1949, is amended by adding at the end thereof the following new sentence: "No person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of such Act shall be eligible to participate in any program conducted under this section (other than nonprofit child feeding programs or programs under which commodities are distributed on an emergency or temporary basis and eligibility for participation therein is not based upon the income or resources of the individual or family)."
(h) Except as otherwise provided in this section, the amendments made by this section shall take effect on January 1, 1973.

CHILD WELFARE SERVICES

Effective date.
42 USC 620.

SEC. 412. Effective with respect to fiscal years beginning after June 30, 1972, section 420 of the Social Security Act is amended by striking out "\$55,000,000 for the fiscal year ending June 30, 1968, \$100,000,000 for the fiscal year ending June 30, 1969, and \$110,000,000 for each fiscal year thereafter" and inserting in lieu thereof "\$196,000,000 for the fiscal year ending June 30, 1973, \$211,000,000 for the fiscal year ending June 30, 1974, \$226,000,000 for the fiscal year ending June 30, 1975, \$246,000,000 for the fiscal year ending June 30, 1976, and \$266,000,000 for each fiscal year thereafter".

SAFEGUARDING INFORMATION

42 USC 302.

SEC. 413. (a) Section 2(a) (7) of the Social Security Act is amended to read as follows:

42 USC 1202.

"(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;"

42 USC 1352.

(b) Section 1002(a) (9) of such Act is amended to read as follows:

"(9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;"

42 USC 1382.

(c) Section 1402(a) (9) of such Act is amended to read as follows:

"(9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;"

(d) Section 1602(a) (7) of such Act is amended to read as follows:

"(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;"

RECIPIENTS OF ASSISTANCE FOR THE AGED, BLIND, AND DISABLED INELIGIBLE

42 USC 602.

SEC. 414. (a) Section 402(a) of the Social Security Act is amended (1) by striking out the period at the end thereof and inserting in lieu

of such period “; and”, and (2) by adding at the end thereof the following new clause: “(24) if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family under this title.”

Ante, p. 1465.

(b) The amendments made by subsection (a) shall be effective on and after January 1, 1973.

Effective date.

Approved October 30, 1972.

Public Law 92-604

AN ACT

October 31, 1972
[H. R. 16074]

To authorize appropriations to carry out jellyfish control programs until the close of fiscal year 1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled “An Act to provide for the control or elimination of jellyfish and other such pests in the coastal waters of the United States, and for other purposes”, approved November 2, 1966 (16 U.S.C. 1203), is amended by striking out “and” after “June 30, 1969,”; and by striking out the period at the end thereof and inserting in lieu thereof the following: “, and \$400,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and June 30, 1977.”

Jellyfish con-
trol.
Appropriation.

80 Stat. 1149;
84 Stat. 922.

Approved October 31, 1972.

Public Law 92-605

AN ACT

October 31, 1972
[S. 1971]

To declare a portion of the Delaware River in Philadelphia County, Pennsylvania, nonnavigable.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That portion of the Delaware River in Philadelphia County, Commonwealth of Pennsylvania, lying between all that certain lot or piece of ground situate in the second and fifth wards of the city of Philadelphia described as follows:

Delaware River,
Pa.
Nonnavigable
portion, declara-
tion.

Beginning at a point on the easterly side of Delaware Avenue (variable width) said side being the bulkhead line of the Delaware River (approved by the Secretary of War on September 10, 1940), at the distance of 1,833.652 feet from an angle point on the easterly side of said Delaware Avenue south of Washington Avenue;

thence extending along the easterly side of said Delaware Avenue the following courses and distances, (1) north 0 degree 45 minutes 33.2 seconds west 2,524.698 feet to a point; (2) north 9 degrees 36 minutes 25 seconds east, 2,168.160 feet to a point; (3) north 13 degrees 26 minutes 45.8 seconds east, 2,039.270 feet to a point; (4) north 20 degrees 12 minutes 52.4 seconds east, 35.180 feet to an angle point in Delaware Avenue;

thence continuing north 20 degrees 12 minutes 52.4 seconds east along the said bulkhead line, the distance of 574.970 feet to a point on the south house line of Callowhill Street produced;

thence extending along the south house line of Callowhill