The original documents are located in Box 51, folder "1976/07/16 HR13501 Medicare Extension Amendments" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

APPROVED
JUL 16 1976

Statement issued 7/19/76

1st 7/16/76

ACTION

THE WHITE HOUSE

WASHINGTON

Last Day: July 17

July 15, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H .R. 13501 - Medicare Extension Amendments

Attached for your consideration is H.R. 13501, sponsored by Representative Rostenkowski.

The enrolled bill would:

-- delay until October 1, 1977 a change in the method of reimbursing teaching physicians in hospitals which is scheduled to take effect on July 1, 1976 under current law;

-- permanently allow reimbursement of certain physicians' fees in excess of the FY 75 "prevailing charge" levels; and

-- provide for updating the physician "customary and prevailing" maximum charges each year on July 1 rather than October 1.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A. Also attached is a proposed signing statement which was prepared by OMB and which focuses on the need to consider and act on your proposed "Medicare Improvements Act of 1976."

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill and the proposed signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign H.R. 13501 at Tab B.

That you approve the signing statement at Tab C.

Approve _____ Disapprove _____

Posted 7/19/76

Archives 7/19/76

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 13501 - Medicare Extension Amendments
Sponsor - Rep. Rostenkowski (D) Illinois

Last Day for Action

July 17, 1976 - Saturday

Purpose

Makes three changes in the Medicare law, with the effect of increasing reimbursement for physicians' services.

Agency Recommendations

Office of Management and Budget	Approval (Signing statement attached)
Department of Health, Education, and Welfare	Approval

Discussion

H.R. 13501 would:

-- delay until October 1, 1977 a change in the method for reimbursing teaching physicians in hospitals which is scheduled to take effect on July 1, 1976 under current law;

-- permanently allow reimbursement of certain physicians' fees in excess of the fiscal year 1975 "prevailing charge" levels; and

-- provide for updating the physician "customary and prevailing" maximum charges each year on July 1 rather than October 1.

The total cost of these amendments compared with current law is estimated to be $157 million in the transition quarter and fiscal year 1977, combined, and $67 million in fiscal year 1978.

Neither the House Ways and Means nor the Senate Finance Committeesheld hearings on H.R. 13501 or requested an Administration position. HEW staff informally advised the House committee staff of Administration opposition but no formal reports opposing the bill were transmitted to the Congress.

The bill was apparently considered noncontroversial by the Committees. It was approved by voice vote in the Senate committee, and by a unanimous vote in the House committee. It was then passed by voice vote in both houses just prior to the congressional July recess.

The following summarizes the three provisions of H.R. 13501:

Teaching physician reimbursement methods. Teaching physicians engage in delivery of care to patients as well as instruction and supervision of interns and residents. In general, Medicare pays for these activities as part of its share of hospital costs. Where a hospital can document that a teaching physician provided "personal and identifiable" services, including direction to interns and residents who provided patient care, however, Medicare will permit billings at the higher amounts usually charged for physician services, which are paid 80% by Medicare and 20% by the patient.

Under current law, starting on July 1, 1976, fee reimbursement is to be restricted to cases where a teaching physician has a prior professional relationship with a patient and generally bills and collects from his patients in the institution where he is a teaching physician. This limitation was originally scheduled to become effective July 1, 1973. As a result of concerns expressed by the medical schools, however, the effective date was postponed until July 1, 1975 and a study of the teaching physician reimbursement issue by the National Academy of Sciences was mandated. A subsequent delay until July 1, 1976 was enacted at the request of the National Academy.

H.R. 13501 would provide for a third delay until October 1, 1977. According to the House and Senate committee reports, this will allow the committees time for a review and evaluation of the National Academy's study, which was submitted to them on March 1, 1976. HEW estimates the provision will reduce Federal costs by $6 million in the transition quarter and fiscal year 1977.

Reimbursement of physicians above 1975 levels. The annual rate of increase in maximum physician fees that Medicare will pay is limited by an economic index. HEW implemented this index in the fiscal year beginning July 1, 1975, two years after the effective date set by law. By that time, however, some physicians had already raised their charges above the level permitted by the index. Congress responded by enacting P.L. 94-182 over Administration objections to pay those charges above the index for one year. H.R. 13501 would go further and extend that "grandfather" clause permanently. HEW estimates that the cost of this provision would be $10 million in the transition quarter and fiscal year 1977, and virtually negligible thereafter.

Updating of "customary and prevailing" charge maximums. The "customary and prevailing" charges used to determine the Medicare reimbursements have been normally updated at the beginning of every fiscal year. The Congressional Budget Act of 1974 changed the beginning of the fiscal year from July 1 to October 1. Thus, under current law the updating of customary and prevailing charges will take place on October 1 rather than July 1.

H.R. 13501 would continue the updating of physician charge index levels on July 1. Enactment of this provision would result in increasing outlays by $153 million in the transition quarter and fiscal year 1977, combined, and by a total of $435 million through fiscal year 1981.

Arguments for approval

1. H.R. 13501 is viewed by the House and Senate committees as making "three relatively minor changes in the medicare law... in order to avoid certain adverse effects on medicare beneficiaries and health care providers." Approval of the bill would prevent higher out-of-pocket expenses for beneficiaries and loss of income by teaching hospitals, and would increase payments to physicians on the same basis as in past years.

2. The Medicare premium for physician services insurance was raised on July 1, 1976 from $6.70 per month to $7.20 per month. Disapproval of H.R. 13501 would be seen as adding a further cost for beneficiaries to bear within a short period of time.

3. By providing for higher physician payments, H.R. 13501 may slow the trend among physicians to bill patients directly rather than accept Medicare payment levels as full reimbursements. Physician services billed directly to the patient--for which the patient must pay the amount not paid by Medicare--now are fifty percent of bills.

4. H.R. 13501 would, by retaining July 1 as the time for updating physicians' "reasonable charges", prevent a three month delay in fee schedule adjustment which HEW and the congressional committees believe would have an adverse effect on beneficiaries. HEW states that a reduction in physician reimbursement due solely to an unrelated change in the definition of the Federal fiscal year is unwarranted and inappropriate. Moreover, the 1977 Budget assumed that updating of Medicare fees would continue to occur on July 1, as provided by H.R. 13501.

5. H.R. 13501 will provide another year for the committees to fully reexamine the complex issue of reimbursement of teaching physicians, as they state they plan to do. HEW believes it would be unresponsive to the intent of Congress, which required a study of the issue by the National Academy of Sciences, to establish new methods of reimbursement prior to a thorough consideration of the Academy's recommendations. HEW also believes the current law would be extremely difficult to administer.

6. HEW and the committees believe the provision of H.R. 13501 permanently "grandfathering" the physician fee increases prior to application of the economic index would prevent a rollback of prevailing charges which was never intended to occur--the index was intended merely to limit future increases in prevailing charges.

Arguments for Disapproval

1. H.R. 13501 would increase Federal outlays for physician services by $64 million in fiscal year 1977 and by $439 million through fiscal year 1981 over the levels now required by the law. This increase is inconsistent with the Administration's comprehensive reforms

calling for $1.5 billion in Medicare program savings--as well as with the Congress' own concurrent budget resolution calling for $300 million of reductions for Medicare.

2. The expenditures under H.R. 13501 would not result in commensurate benefits or reductions in expenses for Medicare enrollees. Most of the added Federal costs would merely raise incomes of physicians and teaching hospitals. HEW estimates that H.R. 13501 would require Federal spending of about $3.45 for each $1.00 of benefit that finally reaches the aged and disabled through fiscal year 1981. Net savings for the aged and disabled are estimated at $8 million in the transition quarter and fiscal year 1977 compared to Federal outlays of $157 million for this period.

3. Current law limited the recent Medicare premium increase for physician insurance (from $6.70 to $7.20 monthly) to 8%--commensurate with last year's social security cash benefit increase--even though program costs per capita will rise over 17%. Thus, without any change in Medicare law, the amount of Federal subsidy of physician insurance for the aged and disabled will increase to $5.1 billion in fiscal year 1977, 70% of total costs.

4. The Congress has failed to enact your proposed "Medicare Improvements of 1976" that would (a) provide catastrophic health insurance for Medicare beneficiaries, (b) require moderate cost-sharing to encourage economical use of services, and (c) limit Federal reimbursements for hospital and physician services to help control rather than encourage health cost inflation. H.R. 13501 ignores these proposals and would instead increase payment rates for physician services--a low priority improvement for patients and one that encourages health cost inflation.

5. Although the 1977 Budget did not propose to delay the annual update of Medicare fee schedules from July 1 to October 1, the "Medicare Improvements of 1976" included an even more restrictive proposal to limit the July 1 physician index increase to 4%. Since that proposal has thus far been ignored by the Congress, the three-month lag under current law could help to moderate the inflationary effects of Medicare's payment methods.

6. The permanent "grandfathering" of higher physician fee increases than would be allowable under the fee index is particularly undesirable because it would provide Federal reimbursement for the most inflationary physician fee increases.

Recommendation

For the reasons given above and in its attached views letter, HEW supports the enactment of H.R. 13501. Basically, we do not find the arguments advanced by HEW persuasive viewed in terms of program considerations. We believe that, on the merits, H.R. 13501 is poor legislation for both the taxpayer and the aged. It is inconsistent with your budget proposals to control Medicare costs and with the Congress' own budget resolution. Moreover, its benefits would go primarily to doctors and hospitals, not to the aged and sick.

Nevertheless, we recognize that a veto of H.R. 13501 could result in some physicians passing on higher fees to Medicare beneficiaries on top of the recent increase in their premiums. Furthermore, the major cost impact of the bill results from a technicality reflecting the change in the Federal fiscal year; it may not be readily understandable why the Administration would insist on a three month lag in what has heretofore been an annual update in allowable physician charges and was so reflected in the 1977 Budget. Finally, H.R. 13501 was viewed by the committees as an essentially noncontroversial technical bill; there was no signal of a veto threat and there appears to be no possibility of sustaining a veto. For these reasons, we recommend that you approve this bill.

We have attached a draft signing statement for your consideration, which focuses on the need to consider and act on your proposed "Medicare Improvements of 1976."

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

STATEMENT BY THE PRESIDENT

I have today signed H.R. 13501, the "Medicare Extension Amendments." Although this bill would, for the most part, simply extend certain technical provisions of the Medicare law, other portions of the bill will increase Medicare payments for physicians' services above the level recommended in my budget without meeting the urgent needs of Medicare beneficiaries and taxpayers. These deficiencies in Medicare benefits can be corrected if the Congress will promptly consider and enact the needed reforms proposed in my "Medicare Improvements of 1976" which was submitted in February.

My proposal would provide catastrophic protection against large medical bills for all of the 25 million aged and disabled who are insured by the Medicare program. These beneficiaries would be entitled to unlimited hospital and nursing home care and would not have to pay any costs above $500 per year for hospital and nursing home care and $250 per year for doctors' fees. This catastrophic protection would reduce payments for hospital or physician services for 3 million persons in 1977. The comprehensive reforms in the "Medicare Improvements of 1976" also include moderate cost-sharing to encourage economical use of services, and a limit on Federal reimbursements for hospital and physician services in order to help control health cost inflation. In total, my proposal would improve insurance against really large medical bills while also saving the taxpayers $1.5 billion in fiscal year 1977.

The Congress has also recognized the high priority that must be given to economies in the Medicare program. The congressional concurrent budget resolution for fiscal year 1977 calls for $300 million of net savings in Medicare.

I am keenly sensitive to the burdens borne by some of our elderly and disabled in meeting their medical expenses. I believe we should take positive steps to provide better protection against catastrophic health costs and inflation in health costs.

Once again, therefore, I urge the Congress to turn its attention to meeting the real needs of the aged and of the taxpayer and enact the "Medicare Improvements of 1976" before it adjourns this year.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 13 Time: 245pm

FOR ACTION: Sarah Massangale
Max Friedersdorf
Ken Lazarus
Robert Hartmann

cc (for information): Jack Marsh
Jim Cavanaugh
EEd Schmults

Sign no ss

(Signing statement attached)

FROM THE STAFF SECRETARY

DUE: Date: July 14 Time: 200pm

SUBJECT:

H.R. 13501 - Medicare Extension Amendments

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__x__ For Your Comments ____ Draft Remarks

REMARKS:

please return to jddy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

JUL 8 1976

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 13501, an enrolled bill "To extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act."

In short, we recommend enactment of the enrolled bill.

The first section of the bill would delay, until October 1, 1977, the effective date of section 227 of Public Law 92-603, which would establish new methods for determining reimbursement under Medicare for teaching physicians. Strong concern about the adverse effects the provision might have on patient care, graduate medical education, and the distribution of health care services prompted the Congress to include in Public Law 93-233 a provision to postpone the original effective date of section 227 from July 1, 1973, to January 1, 1975, while a study of the issue was conducted by the National Academy of Sciences. This law also established interim provisions for reimbursement. A subsequent amendment (contained in Public Law 93-368), requested by the National Academy, postponed the due date of the study and delayed the effective date of section 227 to July 1, 1976.

The final report of the National Academy of Sciences was submitted, as required by law, on March 1, 1976. The Department believes it would be inappropriate and unresponsive to the intent of the Congress, when it required the study, to implement the provisions of section 227 prior to a thorough consideration of the Academy's recommendations.

Furthermore, in its current form, section 227 could be extremely difficult to administer. For example, for a hospital or teaching physician to bill on a fee-for-service basis for services rendered to a Medicare beneficiary, a "private relationship" must exist between the teaching physician and the patient. The criteria for establishing that a physician-patient relationship existed prior to the hospital admission would be extremely difficult for many teaching physicians to document and for our intermediaries to monitor. Because of this and other administrative complexities, the Department favors the delay specified in H.R. 13501 while the Academy recommendations are fully evaluated and alternative reimbursement policies are developed. If we permit section 227 to go into effect on July 1, 1976, it would increase the cost of the Medicare program by $6.2 million during the transition period and fiscal year 1977. For the foregoing reasons we support the first section of the bill.

Section 2 of the enrolled bill would make permanent the applicability of section 101(a) of Public Law 94-182. That section provides that the economic index for determining "prevailing charges" under Medicare could not, for fiscal year 1976, require a rollback of the ceiling on reasonable charges for physicians' services below the level applicable for fiscal year 1975. Section 2 would continue, for future fiscal years, this limit on rollbacks of prevailing charge levels. As we stated in our enrolled bill report on Public Law 94-182, it was not the original intent of the economic index provision to cause any rollback of prevailing charge levels, but rather it was merely intended to provide a means of limiting future prevailing charge increases. Although Public Law 94-182 eliminated the rollback effect which would otherwise have occurred in fiscal year 1976, some rollback of prevailing charges for physician services will occur in fiscal year 1977 (and, to a lesser extent, in later years) if section 2 is not enacted. We therefore support section 2 of the bill.

It is estimated that this section would cost $7 million in fiscal year 1977, and that the cost of the provision would

be virtually negligible thereafter. In addition, by continuing updates in reasonable charge screens on a July-June basis (as would be required by section 3 of the bill), section 2 would result in a cost of $3 million in the transition quarter.

Section 3 of H.R. 13501 would provide for updating reasonable charge screens under part B on July 1 of each year rather than on October 1, as would become the case under the new Federal fiscal year. We believe that a reduction in physician reimbursements due solely to an unrelated change in the definition of a Federal fiscal year is unwarranted and inappropriate. Moreover, an additional three-month lag in updating Medicare reasonable charge screens will further aggravate the gap between physicians' and other suppliers' current charges and amounts recognized as reasonable under the Medicare program. This would have an adverse impact on assignment rates and on beneficiary out-of-pocket medical care costs. We therefore support section 3 of the bill.

The cost of this provision was included in the preparation of the President's budget, since the Social Security Administration actuaries prepared the fiscal year 1977 part B budget outlay estimates on the assumption that reasonable charge screens would continue to be updated on a July-June basis.

Finally, section 4 of the enrolled bill provides that the effective date for sections 2 and 3 of the bill would be July 1, 1976, and would clarify that the requirements of section 2 would be effective with respect to claims filed with a carrier after the carrier had updated the customary and prevailing charges pursuant to section 3.

For the reasons mentioned above, we support the enactment of H.R. 13501.

Sincerely,

Marjorie Lynch

Under Secretary

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 13 Time: 245pm

FOR ACTION: Sarah Massengale
Max Friedersdorf
Ken Lazarus
Robert Hartmann (Signing statement attached)

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 14 Time: 200pm

SUBJECT:

H.R. 13501 - Medicare Extension Amendments

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__x__ For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend approval

without signing statement

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

July 14, 1976

MEMORANDUM FOR: JIM CAVANAUGH

FROM: MAX L. FRIEDERSDORF M. F.

SUBJECT: H.R. 13501 - Medicare Extension Amendments

The Office of Legislative Affairs concurs with the agencies that the subject bill be approved.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 13 Time: 245pm

FOR ACTION: Sarah Massengale
Max Friedersdorf
Ken Lazarus ✓
Robert Hartmann

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

(Signing statement attached)

FROM THE STAFF SECRETARY

DUE: Date: July 14 Time: 200pm

SUBJECT:

H.R. 13501 - Medicare Extension Amendments

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No objection -- Ken Lazarus 7/14/76

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James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

Rec. 7/13 - 3:45 pm

ACTION MEMORANDUM

LOG NO.:

Date: July 13

Time: 245pm

FOR ACTION: Sarah Massengale
Max Friedersdorf
Ken Lazarus
Robert Hartmann (Signing statement attached)

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: July 14

Time: 200pm

SUBJECT:

H.R. 13501 - Medicare Extension Amendments

ACTION REQUESTED:

____ For Necessary Action

____ For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

__x__ For Your Comments

____ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

7/13 - copy sent for researching. nm
7/14 - Researched copy returned. nm

Statement Ed Jr 7/15/76

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James M. Cannon
For the President

THE WHITE HOUSE Rec. 9/13 - 3:45 pm

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Date: July 13 Time: 245pm

FOR ACTION: Sarah Massengale
Max Friedersdorf
Ken Lazarus
Robert Hartmann (Signing statement attached)

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY to Pres 7/13 4:19 GAm to DJS 7/14 10:43 GAm

DUE: Date: July 14 Time: 200pm

SUBJECT:

H.R. 13501 - Medicare Extension Amendments

ACTION REQUESTED:

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James F. Cannon
For the President

STATEMENT BY THE PRESIDENT

I have today signed H.R. 13501, the "Medicare Extension Amendments." Although this bill would, for the most part, simply extend certain technical provisions of the Medicare law, its effect will be to increase Medicare payments for physicians' services above the level recommended in my budget without meeting the urgent needs of Medicare beneficiaries and taxpayers. This can be corrected if the Congress will promptly consider and enact the needed reforms proposed in my "Medicare Improvements of 1976" which was submitted in February.

My proposal would provide catastrophic protection against large medical bills for all of the 25 million aged and disabled who are insured by the Medicare program. These beneficiaries would be entitled to unlimited hospital and nursing home care and would not have to pay any costs above $500 per year for hospital and nursing home care and $250 per year for doctors' fees. This catastrophic protection would reduce payments for hospital or physician services for 3 million persons in 1977. The comprehensive reforms in the "Medicare Improvements of 1976" also include moderate cost-sharing to encourage economical use of services, and a limit on Federal reimbursements for hospital and physician services in order to help control health cost inflation. In total, my proposal would improve insurance against really large medical bills while also saving the taxpayers $1.5 billion in fiscal year 1977.

The Congress has also recognized the high priority that must be given to economies in the Medicare program. The congressional concurrent budget resolution for fiscal year 1977 calls for $300 million of net savings in Medicare.

I am keenly sensitive to the burdens borne by some of our elderly and disabled in meeting their medical expenses. I believe we should take positive steps to provide better protection against catastrophic health costs and inflation in health costs.

Once again, therefore, I urge the Congress to turn its attention to meeting the real needs of the aged and of the taxpayer and enact the "Medicare Improvements of 1976" before it adjourns this year.

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Once again, therefore, I urge the Congress to turn its attention to meeting the real needs of the aged and of the taxpayer and enact the "Medicare Improvements of 1976" before it adjourns this year.

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1114

MEDICARE EXTENSION AMENDMENTS

MAY 10, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

REPORT

(Including cost estimate and comparison of the Congressional Budget Office)

[To accompany H.R. 13501]

The Committee on Ways and Means, to whom was referred the bill (H.R. 13501) to extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE AND BACKGROUND OF THE BILL

Your committee's bill would make three relatively minor changes in the medicare law that must take effect by July 1, 1976, in order to avoid certain adverse effects on medicare beneficiaries and health care providers. In brief, these changes would (a) provide needed additional time during which the Congress can determine an appropriate policy regarding medicare reimbursement for the services of physicians in teaching hospitals; (b) avoid the rollback below fiscal year 1975 levels, of "prevailing charges" (used in determining medicare reimbursement for physicians' services); and (c) continue the practice, which the medicare program has followed since its inception, of updating "customary" and "prevailing" charges (used in determining physician reimbursement) each year as of July 1.

Your committee recommends these minor, but necessary, amendments at this time to modify the effect of medicare changes that would otherwise occur as of July 1 of this year.

II. General Statement

A. Reimbursement for Services of Physicians Provided in Teaching Hospitals

When medicare was enacted, the general expectation reflected in the law was that the patient care services of physicians would be reimbursed under part B of medicare (supplementary medical insurance) on the basis of reasonable charges. Hospital costs, including salaries of interns and residents, as well as supervising physicians participating in educational programs in the hospital, were to be reimbursed under part A of medicare (hospital insurance) on a reasonable cost basis.

These distinctions, however, are not easily made with respect to the actual services and responsibilities in a teaching hospital, where teaching and patient care are often inseparable. The original medicare law did not address the specific issue of how medicare should determine reimbursement for the services of a physician when he supervises interns and residents in the care of patients.

This ambiguity led in practice to a variety of arrangements for reimbursing the services of physicians in teaching hospitals. Out of concern about the lack of uniformity in these arrangements, the Congress included a provision (section 227) in the 1972 social security amendments (Public Law 92–603) that was intended to simplify payment problems.

Adoption of this provision, however, brought forth expressions of serious concern from the medical education community about whether the legislation in fact established a workable and equitable reimbursement policy for the teaching hospital setting. Thereafter, and before section 227 was implimented, the Congress adopted legislation (P.L. 92–233) calling for a thorough study of the issue by the National Academy of Sciences. Pending completion of the study, section 227 of Public Law 92–603 was suspended (until July 1, 1976).

The congressionally chartered study by the National Academy of Sciences was presented to your committee on March 1, 1976. There has not been sufficient time since then to consider the results of the study and develop appropriate legislation. However, the reimbursement method for services of teaching physicians mandated in the 1972 amendments will become effective beginning July 1, 1976, in the absence of any legislative action. Since your committee plans to fully reexamine the entire issue of reimbursement of teaching physicians in light of the study by the National Academy, the bill would postpone the effective date of the 1972 reimbursement provision until October 1, 1977. This would allow your committee the time necessary to give full consideration to the study's findings and recommendations relating to alternative methods of reimbursement for services of physicians in teaching hopsitals.

B. Elimination of Rollbacks in Prevailing Charges Due to Application of the Economic Index

The Social Security Amendments of 1972 (Public Law 92–603) included several provisions designed to control the escalating costs of

the medicare program. Among these was a provision limiting the rate at which "prevailing charges" (the ceilings on what the medicare program will recognize as reasonable charges for physicians' services) can increase from year to year.

Under this provision, the prevailing charges recognized in fiscal year 1973 for a locality were allowed to increase in fiscal year 1974, and in later years, only to the extent justified by indices reflecting changes in operating expenses of physicians and in general earnings levels. The statistical methods used to calculate the limit on increases allowed by the provision were to be established by the Secretary of Health, Education, and Welfare.

The application of the index in the fiscal year beginning July 1, 1975 had one completely unintended effect. In some cases, the index caused fiscal year 1976 prevailing charges to be rolled back below fiscal year 1975 prevailing charge levels. Out of concern that this reduction in the ceiling on medicare payments would have an adverse effect on beneficiaries, your committee recommended leglisation to assure that operation of the economic index during fiscal year 1976 would not result in lower prevailing charges for physicians' services than during fiscal year 1976. This legislation was enacted into law on December 31, 1975 (Public Law 94–182).

It has come to the attention of your committee, however, that, in the absence of legislation, application of the economic index in periods after fiscal year 1976 will once again have a rollback effect—reducing some prevailing charges to levels below what they were in fiscal year 1975. Although the total effects of the rollback in the next 12 months will be less than in the prior fiscal year (and will in the future totally disappear), it is nevertheless an unintended and adverse effect, and should not be allowed to take place. Your committee's bill would, therefore, change the law to eliminate the future possibility of rollbacks in prevailing charges due to application of the economic index.

C. Updating of Customary and Prevailing Charges

Under present medicare law, "customary" and "prevailing" charges (used to determine the medicare reasonable charge for a physician's service) are updated at the beginning of every fiscal year. In years prior to 1976, this meant that charges were updated every July 1, with the update based on actual charges made by physicians in the preceding calendar year.

Under the Congressional Budget and Impoundment Control Act of 1974, the beginning of the governmental fiscal year is moved from July 1 to October 1. A consequence for the medicare program is that the updating of customary and prevailing charges will henceforth take place each year as of October 1 rather than July 1, because existing medicare law calls for such updating to occur at the beginning of each fiscal year. Thus, without a change in the law, in 1976 and every year thereafter, medicare will delay for three additional months the recognition of fee increases that have occurred during the preceding calendar year. The effect is to make medicare reimbursement amounts for physicians' services less adequate than today—at a time when many physicians and beneficiaries already believe that medicare delays too long in recognizing increases in fees.

It is the primary concern of your committee that this additional 3-month lag would have a direct adverse effect on beneficiaries. Even fewer physicians than today would be willing to accept assignment of claims—with the result that additional beneficiaries would have to pay out of their own pockets the increased difference between the medicare allowance and the actual charge of the physician.

Your committee's bill would, therefore, maintain the July 1 date for revising prevailing and customary charges, irrespective of the overall change in the Federal Government's fiscal year.

III. Cost of Carrying Out the Bill and Effect on the Revenues

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made:

Section 1 of your committee's bill postpones for 15 months the effective date of the reimbursement methods for teaching physicians mandated in section 227 of Public Law 92-603. The President's budget made no assumption that section 227 would go into effect on July 1, 1976. The Administration estimates, however, that if section 227 were allowed to go into effect on July 1, 1976, additional medicare expenditures would be incurred. The estimated additional expenditures are shown below:

Medicare expenditures—additional expenditures resulting from reimbursement methods under section 227 of Public Law 92-603

Fiscal years:	*Millions*
Transitional fiscal period (July 1, 1976, through Sept. 30, 1976)	[1]
1977	$5
1978	6
1979	7
1980	8
1981	9

[1] Less than $1 million.

It should be emphasized that enactment of this provision of your committee's bill would have no effect on the outlays shown in the President's budget for the existing medicare program. Failure to enact this or any other provision (thus permitting the provisions of existing law to take effect) would increase budgeted program outlays by the amount shown above.

Section 2 of the bill assures that application of the economic index (as required by Public Law 92-603) will never result in the determination of prevailing charges which are lower than such charges determined for fiscal year 1975. The Administration estimates that if the rollback of prevailing charges were allowed to take place, the resulting savings to the medicare program would amount to $3 million in the transitional fiscal period, $7 million in fiscal year 1977, less than $1 million in fiscal year 1978, and negligible amounts beginning in fiscal year 1979, declining eventually to zero.

However, in determining total medicare expenditures under existing law, the President's budget did not assume that there would be any rollback in prevailing charges. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

Section 3 of the bill provides that, regardless of the change in the Federal Government's fiscal year, medicare's customary and prevail-

ing charges will continue to be updated every July 1. To allow the three-month delay in recognition of increases in physicians' fees to occur would result in a reduction in program expenditures. The estimated reductions are as follows:

Medicare expenditures—reduction in outlays resulting from additional delay in updating customary and prevailing charges

Fiscal years:	
Transitional fiscal period (July 1, 1976 through Sept. 30, 1977)	$91
1977	62
1978	67
1979	76
1980	73
1981	66

However, the President's budget as sent to Congress did not assume that customary and prevailing charges would henceforth be updated as of October 1 (rather than July 1) of each year. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the statement relative to the estimated costs of carrying out the bill furnished to your committee by the Director of the Congressional Budget Office follows:

Congress of the United States,
Congressional Budget Office,
Washington, D.C., May 6, 1976.

Hon. Al Ullman,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 13501, the Medicare Extension Amendments.

Should the Committee so desire, we would be pleased to provide further details on the atached cost estimate.

Sincerely,

Alice M. Rivlin,
Director.

Attachment.

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 13501.
2. Bill title: Medicare Extension Amendments.
3. Purposes of the bill: To extend provisions in the Medicare statute (Title XVIII of the Social Security Act) related to the avoidance of roll backs in charges due to the economic index, the maintenance of the July 1 updating of the charge screen, and the reimbursement of teaching physicians.
4. Cost estimate: No budgetary impact.
5. Basis for estimate: The provisions in this bill extend current law. Since CBO projections for the costs of the Medicare program are

based upon current policy, H.R. 13501 would make no change in those projections.

6. Estimate comparison: The Social Security Administration has also indicated that these provisions would have no impact on their current services projections for medicare outlays.

7. Previous CBO estimate: Not applicable.

8. Estimate prepared by: Jeffrey C. Merrill (225-4972).

9. Estimate approved by: C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

IV. Other Matters Required To Be Discussed Under House Rules

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was unanimously ordered favorably reported by your committee.

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As the result of its continuing examination of the operation of the medicare program, your committee has concluded that certain changes that would occur in the program under existing law should not take place; accordingly, the bill instead extends into the future several arrangements under which the program currently operates.

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, your committee states that the changes made in present law by this bill involve no new budgetary authority or new or increased tax expenditures.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, your committee advises that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, your committee states that the three changes made under this bill would not have an inflationary impact on prices and costs in the operation of the national economy. All three sections would merely extend certain existing medicare arrangements.

V. Section-by-Section Analysis and Jurisdiction of the Bill

Section 1. Reimbursement for services of physicians provided in teaching hospitals

Analysis

Section 1 would postpone the effective date of the reinmbursement methods for services of physicians in teaching hospitals called for under section 227 of the 1972 social security amendments (Public Law 92-603) from July 1, 1976, to October 1, 1977 (i.e., cost-accounting periods beginning after September 30, 1977).

Justification

Before section 227 was implemented, Public Law 93-233 (December 31, 1973) authorized the Institute of Medicine of the National

Academy of Sciences to undertake a detailed study of the issues in teaching physician reimbursement and postponed the effective date of section 227. The completed study was submitted to the Committee on Ways and Means in March, 1976. The further extension of the effective date of the reimbursement provision would allow the time necessary for the committee to consider the study and determine whether an alternative approach to teaching physician reimbursement would be preferable.

Section 2. Elimination of rollbacks in prevailings charges due to application of the economic index

Analysis

Section 2 would assure that operation of the economic index (applied pursuant to the 1972 social security admendments—Public Law 92-603) will never result in determination of prevailing charges for physician services that are lower than they were in fiscal year 1975.

Justification

It was never intended that application of the economic index in fiscal year 1976 (when the index was first applied) should have the effect of rolling back prevailing charges below their fiscal year 1975 levels. A rollback did, however, occur in fiscal year 1976 but was corrected by enactment of Public Law 94-182. To avoid the occurance of such rollbacks again, the bill would modify the law to assure that in no future period will the economic index result in prevailing charges lower than were determined for fiscal year 1975.

Section 3. Updating of customary and prevailing charges

Analysis.

Section 3 would assure that customary and prevailing charges continue to be updated every July 1, even though the beginning of the Federal Government's fiscal year is changed to October 1.

Justification

To allow the change in the fiscal year to apply to the updating of customary and prevailing charges would result in an additional 3-month delay in recognizing increases in physicians' fees at a time when many physicians and beneficiaries already believe medicare delays too long in recognizing increases. Of primary concern is that this delay would have an adverse effect on beneficiaries. Even fewer physicans than today would be willing to accept assignment of claims—with the result that additional beneficiaries would have to pay out of their own pockets the increased difference between the medicare allowance and the actual charge of the physician.

Section 4. Effective dates

Analysis.

Section 4 provides that section 2 (elimination of a rollback in prevailing charges due to application of the economic index) and section 3 (updating of customary and prevailing charges) will become effective July 1, 1976; except that, for the 12-month period beginning July 1, 1976, the requirements of section 2 will be effective with respect to

claims filed with carriers after the carriers have updated the customary and prevailing charges pursuant to section 3.

Justification

July 1, 1976 is the date on which the existing medicare law would have called for customary and prevailing charges to be updated if the Federal Government's fiscal year had not been changed, and section 3 of the bill restores that date. A previously enacted medicare amendment assured that for fiscal year 1976, no prevailing charges would be determined to be lower than they were in fiscal year 1975 (due to application of the economic index). For periods after fiscal year 1976, the effective date of section 2 results in the same assurance, keyed to the updating of prevailing charges by medicare carriers.

VI. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Section 15 of Public Law 93-233

To provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, an for other purposes

* * * * * * *

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL

SEC. 15. (a)(1) * * *

* * * * * * *

(d) The provisions of subsection (a) shall apply with respect to cost accounting periods beginning after June 30, 1973, and prior to [July 1, 1976] *October 1, 1977.*

Section 1824 of the Social Security Act

USE OF CARRIERS FOR ADMINISTRATION OF BENEFITS

SEC. 1842. (a) * * *
(b)(1) * * *

* * * * * * *

(3) Each such contract shall provide that the carrier—

(A) will take such action as may be necessary to assure that, where payment under this part for a service is on a cost basis, the cost is reasonable cost (as determined under section 1861(v));

(B) will take such action as may be necessary to assure that, where payment under this part for a service is on a charge basis, such charge will be reasonable and not higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier, and such payment will (except as otherwise provided in section 1870(f)) be made—

(i) on the basis of an itemized bill; or

(ii) on the basis of an assignment under the terms of which (I) the reasonable charge is the full charge for the service (except in the case of physicians' services and ambulance service furnished as described in section 1862(a)(4), other than for purposes of section 1870(f) 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;

but (in the case of bills submitted, or requests for payment made, after March 1968) only if the bill is submitted, or a written request for payment is made in such other form as may be permitted under regulations, no later than the close of the calendar year following the year in which such service is furnished (deeming any service furnished in the last 3 months of any calendar year to have been furnished in the succeeding calendar year);

(C) will establish and maintain procedures pursuant to which an individual enrolled under this part will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is $100 or more when requests for payment under this part with respect to services furnished him are denied or are not acted upon with reasonable promptness or when the amount of such payment is in controversy;

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

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] *12-month period (beginning July 1 of each 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,] *12-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence* 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 economics 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. 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, Eduction, 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. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the [fiscal year beginning July 1, 1975,] *12-month period beginning on July 1 in any calendar year after 1974* shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

* * * * * * *

SECTION 204 OF THE FISCAL YEAR TRANSITION ACT

AN ACT To provide for the orderly transaction to the new October 1 to September 30 fiscal year

* * * * * * *

SEC. 204. The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of the following provisions of law:

(1) * * *

* * * * * * *

(7) the following provisions of the Social Security Act:
section 201(c) (42 U.S.C. 401(c));
sections 403 (c) and (f) (42 U.S.C. 603 (c) and (f);
section 423(c) (42 U.S.C. 623(c));
section 1118 (42 U.S.C. 1318);
section 1817(b) (42 U.S.C. 1395i(b));
section 1841(b) (42 U.S.C. 1395t(b));
[section 1842(b)(3) (42 U.S.C. 1395u(b)(3));]

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Calendar No. 993

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94-993

MEDICARE EXTENSION AMENDMENTS

JUNE 25 (legislative day, JUNE 18), 1976.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 13501]

The Committee on Finance, to which was referred the bill (H.R. 13501) to extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

I. SUMMARY OF THE BILL

The bill would make three relatively minor changes in the medicare law that must take effect by July 1, 1976, in order to avoid certain adverse effects on medicare beneficiaries and health care providers. In brief, these changes would (a) provide needed additional time during which the Congress can determine an appropriate policy regarding medicare reimbursement for the services of physicians in teaching hospitals; (b) avoid the rollback below fiscal year 1975 levels, of "prevailing charges" (used in determining medicare reimbursement for physicians' services); and (c) continue the practice, which the medicare program has followed since its inception, of updating "customary" and "prevailing" charges (used in determining physician reimbursement) each year as of July 1.

The committee recommends these minor, but necessary, amendments at this time to modify the effect of medicare changes that would otherwise occur as of July 1 of this year.

In addition, the committee bill would authorize the Secretary of Health, Education, and Welfare to make adjustments in medicare nursing home reimbursement in certain areas of the country—such as Alaska—with unusually high cost levels.

57-010—76——1

II. General Explanation of the Bill

A. Reimbursement for Services of Physicians Provided in Teaching Hospitals

When medicare was enacted, the general expectation reflected in the law was that the patient care services of physicians would be reimbursed under part B of medicare (supplementary medical insurance) on the basis of reasonable charges. Hospital costs, including salaries of interns and residents, as well as supervising physicians participating in educational program in the hospital, were to be reimbursed under part A of medicare (hospital insurance) on a reasonable cost basis.

These distinctions, however, are not easily made with respect to the actual services and responsibilities in a teaching hospital, where teaching and patient care are often inseparable. The original medicare law did not address the specific issue of how medicare should determine reimbursement for the services of a physician when he supervises interns and residents in the care of patients.

This ambiguity led in practice to a variety of arrangements for reimbursing the services of physicians in teaching hospitals. Out of concern about the lack of uniformity in these arrangements, the Congress included a provision (section 227) in the 1972 social security amendments (Public Law 92–603) that was intended to simplify payment problems.

Adoption of this provision, however, brought forth expressions of serious concern from the medical education community about whether the legislation in fact established a workable and equitable reimbursement policy for the teaching hosiptal setting. Thereafter, and before section 227 was implimented, the Congress adopted legislation (P.L. 92–233) calling for a thorough study of the issue by the National Academy of Sciences. Pending completion of the study, section 227 of Public Law 92–603 was suspended (until July 1, 1976).

The congressionally chartered study by the National Academy of Sciences was submitted on March 1, 1976. There has not been sufficient time since then to consider the results of the study and develop appropriate legislation. However, the reimbursement method for services of teaching physicians mandated in the 1972 amendments will become effective beginning July 1, 1976, in the absence of any legislative action. Since the Committee on Ways and Mean and the Committee on Finance plan to fully reexamine the entire issue of reimbursement of teaching physicians in light of the study by the National Academy, the bill would postpone the effective date of the 1972 reimbursement provision until October 1, 1977. This would allow the time necessary to give full consideration to the study's findings and recommendations relating to alternative methods of reimbursement for services of physicians in teaching hospitals.

B. Elimination of Rollbacks in Prevailing Charges Due to Application of the Economic Index

The Social Security Amendments of 1972 (Public Law 92–603) included several provisions designed to control the escalating costs of

the medicare program. Among these was a provision limiting the rate at which "prevailing charges" (the ceilings on what the medicare program will recognize as reasonable charges for physicians' services) can increase from year to year.

Under this provision, the prevailing charges recognized in fiscal year 1973 for a locality were allowed to increase in fiscal year 1974, and in later years, only to the extent justified by indices reflecting changes in operating expenses of physicians and in general earnings levels. The statistical methods used to calculate the limit on increases allowed by the provision were to be established by the Secretary of Health, Education, and Welfare.

The application of the index in the fiscal year beginning July 1, 1975 had one completely unintended effect. In some cases, the index caused fiscal year 1976 prevailing charges to be rolled back below fiscal year 1975 prevailing charge levels. Out of concern that this reduction in the ceiling on medicare payments would have an adverse effect on beneficiaries, the committee recommended legislation to assure that operation of the economic index during fiscal year 1976 would not result in lower prevailing charges for physicians' services than during fiscal year 1976. This legislation was enacted into law on December 31, 1975 (Public Law 94–182).

However, in the absence of further legislation, application of the economic index in periods after fiscal year 1976 will once again have a rollback effect—reducing some prevailing charges to levels below what they were in fiscal year 1975. Although the total effects of the rollback in the next 12 months will be less than in the prior fiscal year (and will in the future totally disappear), it is nevertheless an unintended and adverse effect, and should not be allowed to take place. The bill would, therefore, change the law to eliminate the future possibility of rollbacks in prevailing charges due to application of the economic index.

C. Updating of Customary and Prevailing Charges

Under present medicare law, "customary" and "prevailing" charges (used to determine the medicare reasonable charge for a physician's service) are updated at the beginning of every fiscal year. In years prior to 1976, this meant that charges were updated every July 1, with the update based on actual charges made by physicians in the preceding calendar year.

Under the Congressional Budget and Impoundment Control Act of 1974, the beginning of the governmental fiscal year is moved from July 1 to October 1. A consequence for the medicare program is that the updating of customary and prevailing charges will henceforth take place each year as of October 1 rather than July 1, because existing medicare law calls for such updating to occur at the beginning of each fiscal year. Thus, without a change in the law, in 1976 and every year thereafter, medicare will delay for three additional months the recognition of fee increases that have occurred during the preceding calendar year. The effect is to make medicare reimbursement amounts for physicians' services less adequate than today—at a time when many physicians and beneficiaries already believe that medicare delays too long in recognizing increases in fees.

D. ADJUSTMENT IN MEDICARE REIMBURSEMENT IN UNUSUALLY HIGH COST GEOGRAPHIC AREAS

The committee is concerned that present methods for determining reasonable costs reimbursement for nursing home care under Medicare may be inadequate in Alaska because of the unusually high cost levels prevailing in that State. The effect of any significant inadequacies in payment may be to discourage the provision and availability of necessary care for medicare patients. The committee has, therefore, included an amendment authorizing the Secretary of HEW to increase reimbursement for skilled nursing facility care in Alaska if he finds present payment levels and procedures inadequate or inequitable. Any adjustments which the Secretary might find appropriate would be applicable for care provided in skilled nursing facilities which currently participate in or which previously participated in the medicare program.

It is the concern of the committee that this additional 3-month lag would have a direct adverse effect on beneficiaries. Even fewer physicians than today would be willing to accept assignment of claims—with the result that additional beneficiaries would have to pay out of their own pockets the increased difference between the medicare allowance and the actual charge of the physician.

The bill would, therefore, maintain the July 1 date for revising prevailing and customary charges, irrespective of the overall change in the Federal Government's fiscal year.

III. Budgetary Impact of the Bill

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and section 308 of the Congressional Budget Act of 1974, the following statements are made with respect to budgetary impact:

Section 1 of the bill postpones for 15 months the effective date of the reimbursement methods for teaching physicians mandated in section 227 of Public Law 92–603. The President's budget made no assumption that section 227 would go into effect on July 1, 1976. The Administration estimates, however, that if section 227 were allowed to go into effect on July 1, 1976, additional medicare expenditures would be incurred. The estimated additional expenditures are shown below:

Medicare expenditures—additional expenditures resulting from reimbursement methods under section 227 of Public Law 92–603

Fiscal years:	*Millions*
Transitional fiscal period (July 1, 1976, through Sept. 30, 1976)	(1)
1977	$5
1978	6
1979	7
1980	8
1981	9

[1] Less than $1,000,000.

It should be emphasized that enactment of this provision of the bill would have no effect on the outlays shown in the President's budget for the existing medicare program. Failure to enact this or any other provision (thus permitting the provisions of existing law to take effect) would increase budgeted program outlays by the amount shown above.

Section 2 of the bill assures that application of the economic index (as required by Public Law 92–603) will never result in the determination or prevailing charges which are lower than such charges determined for fiscal year 1975. The Administration estimates that if the rollback of prevailing charges were allowed to take place, the resulting savings to the medicare program would amount to $3 million in the transitional fiscal period, $7 million in fiscal year 1977, less than $1 million in fiscal year 1978, and negligible amounts beginning in fiscal year 1979, declining eventually to zero.

However, in determining total medicare expenditures under existing law, the President's budget did not assume that there would be any rollback in prevailing charges. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

Section 3 of the bill provides that, regardless of the change in the Federal Government's fiscal year, medicare's customary and prevailing charges will continue to be updated every July 1. To allow the three-month delay in recognition of increases in physicians' fees to occur would result in a reduction in program expenditures. The estimated reductions are as follows:

Medicare expenditures—reduction in outlays resulting from additional delay in updating customary and prevailing charges

Fiscal years:	
Transitional fiscal period (July 1, 1976 through Sept. 30, 1977)	$91
1977	62
1978	67
1979	76
1980	73
1981	66

However, the President's budget as sent to Congress did not assume that customary and prevailing charges would henceforth be updated as of October 1 (rather than July 1) of each year. Thus, adoption of this provision of the bill would not affect the amounts already shown in the budget for the existing medicare program.

The statement relative to the estimated costs of carrying out the bill furnished by the Director of the Congressional Budget Office follows:

Congress of the United States,
Congressional Budget Office,
Washington, D.C., May 6, 1976.

Hon. Al Ullman,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 13501, the Medicare Extension Amendments.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,
Director.

Attachment.

(D) will furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this part; and

(E) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (D) and otherwise to carry out the purposes of this part;

and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate. In determining the reasonable charge for services for purposes of this paragraph, there shall be taken into consideration the customary charges for similar services generally made by the physician or other person furnishing such services, as well as the prevailing charges in the locality for similar services.

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] *12-month period (beginning July 1 of each 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,] *12-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence* 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 economics 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. 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 requestted promptly after such error or misrepresentation is eliminated or corrected. Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the

case of a physican service in a particular locality determined pursuant to such third and fourth sentences for the [fiscal year beginning July 1, 1975.] *12-month period beginning on July 1 in any calendar year after 1974* shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.

* * * * * * *

Sec. 1861 (a) * * *

* * * * * * *

(v) (1) (A) * * *

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(F) The Secretary of Health, Education, and Welfare in the administration of the health insurance program established by title XVIII of the Social Security Act may, establish special criteria for purposes of determining the reasonable cost incurred by a skilled nursing facility for services for which payment is authorized under either such title, if—

(1) such skilled nursing facility is located in an area characterized by unusually higher cost levels (as compared to other areas in the United States),

(2) such facility is experiencing financial adversity due in substantial part to such unusually higher cost levels,

(3) an increase in reimbursement to such facility, for services performed by it for patients covered under the program established by such title XVIII would enable such facility to continue in operation, and

(4) such facility was a provider of services on or before July 1, 1976, which special criteria shall be designed to increase the amounts otherwise payable to such facility, under such title XVIII to the extent necessary more fully to take into account the unusually higher costs incurred by such facility and the impact of such higher costs on the cost which such facility would incur in necessary replacement of items and facilities utilized by it in carrying out its functions.

(b) The special criteria referred to in subsection (a) shall be applicable to a skilled nursing facility only during a period with respect to which such facility meets the conditions specified in paragraphs (1), (2), (3) and (4) of such subsection.

Section 204 of the Fiscal Year Transition Act

AN ACT To provide for the orderly transaction to the new October 1 to September 30 fiscal year

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SEC. 204. The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of the following provisions of law:

(1) * * *

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(7) the following provisions of the Social Security Act:
section 201(c) (42 U.S.C. 401(c));
section 403 (c) and (f) (42 U.S.C. 603 (c) and (f);
section 423(c) (42 U.S.C. 623(c));
section 1118 (42 U.S.C. 1318);
section 1817 (b) (42 U.S.C. 1395i (b));
section 1841(b) (42 U.S.C. 1395t(b));
[section 1842(b)(3) (42 U.S.C. 1395u(b)(3));]

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H. R. 13501

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the nineteenth day of January, one thousand nine hundred and seventy-six

An Act

To extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15(d) of Public Law 93–233 (as amended by section 7(c) of Public Law 93–368) is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

SEC. 2. The last sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "for the fiscal year beginning July 1, 1975," and inserting in lieu thereof "for the twelve-month period beginning on July 1 in any calendar year after 1974".

SEC. 3. (a) The third sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "prior to the start of the fiscal year in which the bill is submitted or the request for payment is made" in clause (ii) and inserting in lieu thereof "prior to the start of the twelve-month period (beginning July 1 of each year) in which the bill is submitted or the request for payment is made".

(b) The fourth sentence of section 1842(b)(3) of such Act is amended by striking out "for any fiscal year beginning after June 30, 1973," and inserting in lieu thereof "for any twelve-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence".

(c) Section 204(7) of the Fiscal Year Transition Act is amended by striking out the reference to section 1842(b)(3) of the Social Security Act.

SEC. 4. The amendments made by sections 2 and 3 of this Act shall be effective with respect to periods beginning after June 30, 1976; except that, for the twelve-month period beginning July 1, 1976, the amendments made by section 3 shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act (after June 30, 1976, and before July 1, 1977) with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made pursuant to such section 3 in the prevailing charge levels for such twelve-month period under the third and fourth sentences of section 1842(b)(3) of the Social Security Act.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

FOR IMMEDIATE RELEASE July 19, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have signed H.R. 13501, the "Medicare Extension Amendments." Although this bill would, for the most part, simply extend certain technical provisions of the Medicare law, other portions of the bill will increase Medicare payments for physicians' services above the level recommended in my budget without meeting the urgent needs of Medicare beneficiaries and taxpayers. These deficiencies in Medicare benefits can be corrected if the Congress will promptly consider and enact the needed reforms proposed in my "Medicare Improvements of 1976" which was submitted in February.

My proposal would provide catastrophic protection against large medical bills for all of the 25 million aged and disabled who are insured by the Medicare program. These beneficiaries would be entitled to unlimited hospital and nursing home care and would not have to pay any costs above $500 per year for hospital and nursing home care and $250 per year for doctors' fees. This catastrophic protection would reduce payments for hospital or physician services for 3 million persons in 1977. The comprehensive reforms in the "Medicare Improvements of 1976" also include moderate cost-sharing to encourage economical use of services, and a limit on Federal reimbursements for hospital and physician services in order to help control health cost inflation. In total, my proposal would improve insurance against really large medical bills while also saving the taxpayers $1.5 billion in fiscal year 1977.

The Congress has also recognized the high priority that must be given to economies in the Medicare program. The congressional concurrent budget resolution for fiscal year 1977 calls for $300 million of net savings in Medicare.

I am keenly sensitive to the burdens borne by some of our elderly and disabled in meeting their medical expenses. I believe we should take positive steps to provide better protection against catastrophic health costs and inflation in health costs.

Once again, therefore, I urge the Congress to turn its attention to meeting the real needs of the aged and of the taxpayer and enact the "Medicare Improvements of 1976" before it adjourns this year.

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