

TRANSITION

Pub. L. 105-33, title IV, § 4611(e), Aug. 5, 1997, 111 Stat. 473, provided that:

“(1) IN GENERAL.—Notwithstanding any provision of title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], the Secretary of Health and Human Services shall establish a transition for the aggregate amount of expenditures that are transferred from part A, to part B, of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq., 1395j et seq.], as a result of the amendments made by this section [amending this section and sections 1395u, 1395x, and 1395ff of this title], during each of the years during the period beginning with 1998 and ending with 2002 according to this subsection. Under the transition for each such year, the Secretary shall effect such transfer, between the trust funds under such parts, as will result in only the proportion (specified in paragraph (2)) of such aggregate expenditures for the year being transferred from such part A to such part B.

“(2) PROPORTION SPECIFIED.—The proportion specified in this paragraph for—

- “(A) 1998 is $\frac{1}{6}$,
- “(B) 1999 is $\frac{1}{3}$,
- “(C) 2000 is $\frac{1}{2}$,
- “(D) 2001 is $\frac{2}{3}$, and
- “(E) 2002 is $\frac{5}{6}$.

“(3) APPLICATION IN ESTABLISHING MONTHLY PREMIUMS FOR 1998 THROUGH 2003.—

“(A) IN GENERAL.—For purposes only of computing the monthly premium under section 1839 of the Social Security Act (42 U.S.C. 1395r), the monthly actuarial rate for enrollees age 65 and over shall be computed as though any reference in paragraph (1) of this subsection to 2002 were a reference to 2003 and as if the following proportions were substituted for the proportions specified in paragraph (2):

- “(i) For 1998, $\frac{1}{4}$.
- “(ii) For 1999, $\frac{3}{7}$.
- “(iii) For 2000, $\frac{3}{4}$.
- “(iv) For 2001, $\frac{1}{2}$.
- “(v) For 2002, $\frac{5}{7}$.
- “(vi) For 2003, $\frac{9}{7}$.

“(B) NO IMPACT ON GOVERNMENT CONTRIBUTION.—Subparagraph (A) does not apply in determining the amount of the Government contribution under section 1844 of the Social Security Act (42 U.S.C. 1395w).”

REPEAL OF 1988 EXPANSION OF MEDICARE PART A
BENEFITS

For provisions repealing amendment by section 101 of Pub. L. 100-360, restoring or reviving this section as if section 101 of Pub. L. 100-360 had not been enacted, and providing a transition period for medicare beneficiaries with respect to inpatient hospital services and extended care services provided on or after Jan. 1, 1990, and providing an exception to such restoration for certain hospice care, see section 101(a)-(b)(2) of Pub. L. 101-234, set out as a note under section 1395e of this title.

§ 1395e. Deductibles and coinsurance

(a) Inpatient hospital services; outpatient hospital diagnostic services; blood; post-hospital extended care services

(1) The amount payable for inpatient hospital services or inpatient critical access hospital services furnished an individual during any spell of illness shall be reduced by a deduction equal to the inpatient hospital deductible or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed. Such amount shall be further reduced by a coinsurance amount equal to—

(A) one-fourth of the inpatient hospital deductible for each day (before the 91st day) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 60 days during such spell; and

(B) one-half of the inpatient hospital deductible for each day (before the day following the last day for which such individual is entitled under section 1395d(a)(1) of this title to have payment made on his behalf for inpatient hospital services or inpatient critical access hospital services during such spell of illness) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 90 days during such spell;

except that the reduction under this sentence for any day shall not exceed the charges imposed for that day with respect to such individual for such services (and for this purpose, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed).

(2)(A) The amount payable to any provider of services under this part for services furnished an individual shall be further reduced by a deduction equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during each calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

(B) The deductible under subparagraph (A) for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1395l(b) of this title to blood or blood cells furnished the individual in the year.

(3) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days during such spell.

(4)(A) The amount payable for hospice care shall be reduced—

(i) in the case of drugs and biologicals provided on an outpatient basis by (or under arrangements made by) the hospice program, by a coinsurance amount equal to an amount (not to exceed \$5 per prescription) determined in accordance with a drug copayment schedule (established by the hospice program) which is

related to, and approximates 5 percent of, the cost of the drug or biological to the program, and

(ii) in the case of respite care provided by (or under arrangements made by) the hospice program, by a coinsurance amount equal to 5 percent of the amount estimated by the hospice program (in accordance with regulations of the Secretary) to be equal to the amount of payment under section 1395f(i) of this title to that program for respite care;

except that the total of the coinsurance required under clause (ii) for an individual may not exceed for a hospice coinsurance period the inpatient hospital deductible applicable for the year in which the period began. For purposes of this subparagraph, the term "hospice coinsurance period" means, for an individual, a period of consecutive days beginning with the first day for which an election under section 1395d(d) of this title is in effect for the individual and ending with the close of the first period of 14 consecutive days on each of which such an election is not in effect for the individual.

(B) During the period of an election by an individual under section 1395d(d)(1) of this title, no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished.

(b) Inpatient hospital deductible; application

(1) The inpatient hospital deductible for 1987 shall be \$520. The inpatient hospital deductible for any succeeding year shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by the Secretary's best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1395ww(b)(3)(B) of this title) which are applied under section 1395ww(d)(3)(A) of this title for discharges in the fiscal year that begins on October 1 of such preceding calendar year, and adjusted to reflect changes in real case mix (determined on the basis of the most recent case mix data available). Any amount determined under the preceding sentence which is not a multiple of \$4 shall be rounded to the nearest multiple of \$4 (or, if it is midway between two multiples of \$4, to the next higher multiple of \$4).

(2) The Secretary shall promulgate the inpatient hospital deductible and all coinsurance amounts under this section between September 1 and September 15 of the year preceding the year to which they will apply.

(3) The inpatient hospital deductible for a year shall apply to—

(A) the deduction under the first sentence of subsection (a)(1) for the year in which the first day of inpatient hospital services or inpatient critical access hospital services occurs in a spell of illness, and

(B) to the coinsurance amounts under subsection (a) for inpatient hospital services, inpatient critical access hospital services and post-hospital extended care services furnished in that year.

(Aug. 14, 1935, ch. 531, title XVIII, § 1813, as added Pub. L. 89-97, title I, § 102(a), July 30, 1965, 79

Stat. 292; amended Pub. L. 90-248, title I, §§ 129(c)(3), (4), 135(a), 137(b), Jan. 2, 1968, 81 Stat. 847, 848, 852, 854; Pub. L. 97-35, title XXI, §§ 2131(a), 2132(a), Aug. 13, 1981, 95 Stat. 797; Pub. L. 97-248, title I, § 122(e), Sept. 3, 1982, 96 Stat. 361; Pub. L. 99-272, title IX, § 9125(a), Apr. 7, 1986, 100 Stat. 168; Pub. L. 99-509, title IX, § 9301(a), Oct. 21, 1986, 100 Stat. 1981; Pub. L. 100-203, title IV, § 4002(f)(3), Dec. 22, 1987, as added Pub. L. 100-360, title IV, § 411(b)(1)(H)(ii), July 1, 1988, 102 Stat. 769; Pub. L. 100-360, title I, § 102, July 1, 1988, 102 Stat. 685; Pub. L. 101-234, title I, § 101(a), Dec. 13, 1989, 103 Stat. 1979; Pub. L. 103-432, title I, § 102(g)(2), (3), Oct. 31, 1994, 108 Stat. 4404; Pub. L. 105-33, title IV, § 4201(c)(1), Aug. 5, 1997, 111 Stat. 373.)

AMENDMENTS

1997—Pub. L. 105-33 substituted "critical access" for "rural primary care" wherever appearing.

1994—Subsec. (a)(1). Pub. L. 103-432, § 102(g)(2), substituted "inpatient hospital services or inpatient rural primary care hospital services" for "inpatient hospital services" in introductory provisions and in subpar. (B).

Subsec. (b)(3)(A). Pub. L. 103-432, § 102(g)(2), substituted "inpatient hospital services or inpatient rural primary care hospital services" for "inpatient hospital services".

Subsec. (b)(3)(B). Pub. L. 103-432, § 102(g)(3), substituted "inpatient hospital services, inpatient rural primary care hospital services" for "inpatient hospital services".

1989—Subsecs. (a)(1) to (3), (b)(3). Pub. L. 101-234 repealed Pub. L. 100-360, § 102, subject to an exception for blood deduction, and provided that the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted, see 1988 Amendment notes below.

1988—Subsec. (a)(1) to (3). Pub. L. 100-360, § 102(1), amended pars. (1) to (3) generally, revising and reorganizing former pars. (1)(A), (B), (2), and (3), as par. (1), consisting of subpars. (A) to (D), and pars. (2) and (3), each consisting of subpars. (A) and (B).

Subsec. (b)(1). Pub. L. 100-360, § 411(b)(1)(H)(ii), added Pub. L. 100-203, § 4002(f)(3), see 1987 Amendment note below.

Subsec. (b)(3). Pub. L. 100-360, § 102(2), struck out par. (3) which related to application of deductible.

1987—Subsec. (b)(1). Pub. L. 100-203, § 4002(f)(3), as added by Pub. L. 100-360, § 411(b)(1)(H)(ii), substituted "Secretary's best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1395ww(b)(3)(B) of this title) which are applied" for "applicable percentage increase (as defined in section 1395ww(b)(3)(B) of this title) which is applied".

1986—Subsec. (b). Pub. L. 99-509 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

"(1) The inpatient hospital deductible which shall be applicable for the purposes of subsection (a) of this section shall be \$40 in the case of any spell of illness beginning before 1969.

"(2) The Secretary shall, between July 1 and September 15 of 1968, and of each year thereafter, determine and promulgate the inpatient hospital deductible which shall be applicable for the purposes of subsection (a) of this section in the case of any inpatient hospital services or post-hospital extended care services furnished during the succeeding calendar year. Such inpatient hospital deductible shall be equal to \$45 multiplied by the ratio of (A) the current average per diem rate for inpatient hospital services for the calendar year preceding the promulgation, to (B) the current average per diem rate for such services for 1966. Any amount determined under the preceding sentence which is not a multiple of \$4 shall be rounded to the nearest multiple of \$4 (or, if it is midway between two multiples of \$4, to

the next higher multiple of \$4). The current average per diem rate for any year shall be determined by the Secretary on the basis of the best information available to him (at the time the determination is made) as to the amounts paid under this part on account of inpatient hospital services furnished during such year, by hospitals which have agreements in effect under section 1395cc of this title, to individuals who are entitled to hospital insurance benefits under section 426 of this title, plus the amount which would have been so paid but for subsection (a)(1) of this section."

Subsec. (b)(2). Pub. L. 99-272 substituted "September 15" for "October 1".

1982—Subsec. (a)(4). Pub. L. 97-248 added par. (4).

1981—Subsec. (b)(2). Pub. L. 97-35 substituted "any inpatient hospital services or post-hospital extended care services furnished during the succeeding calendar year. Such inpatient hospital deductible shall be equal to \$45" for "any spell of illness beginning during the succeeding calendar year. Such inpatient hospital deductible shall be equal to \$40".

1968—Subsec. (a)(1). Pub. L. 90-248, §137(b), designated existing provisions as subpar. (A) and added subpar. (B) and the exception provision that the reduction for any day shall not exceed the charges for that day.

Subsec. (a)(2). Pub. L. 90-248, §135(a), made the three pint deductible applicable also to equivalent quantities of packed red blood cells, as defined by the Secretary under regulations.

Subsec. (a)(2) to (4). Pub. L. 90-248, §129(c)(3), struck out par. (2) which provided for reduction of amount payable for outpatient hospital diagnostic services furnished an individual during a diagnostic study, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (b)(1), (2). Pub. L. 90-248, §129(c)(4)(A), (B), struck out diagnostic studies from application of inpatient hospital deductible.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to services furnished on or after Oct. 1, 1997, see section 4201(d) of Pub. L. 105-33, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-234 effective Jan. 1, 1990, see section 101(d) of Pub. L. 101-234, set out as a note under section 1395c of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 102 of Pub. L. 100-360 effective Jan. 1, 1989, except as otherwise provided, and applicable to inpatient hospital deductible for 1989 and succeeding years, to care and services furnished on or after Jan. 1, 1989, to premiums for January 1989 and succeeding months, and to blood or blood cells furnished on or after Jan. 1, 1989, see section 104(a) of Pub. L. 100-360, set out as a note under section 1395d of this title.

Pub. L. 100-360, title IV, §411(b)(1)(H)(iii), July 1, 1988, 102 Stat. 769, provided that: "The amendment made by clause (ii) [amending Pub. L. 100-203] shall apply to the inpatient hospital deductible for years beginning with 1989."

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-509, title IX, §9301(b), Oct. 21, 1986, 100 Stat. 1982, provided that: "The amendment made by subsection (a) [amending this section] shall apply to inpatient hospital services and post-hospital extended care services furnished on or after January 1, 1987, and to the monthly premium (under part A of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq.]) for months beginning with January 1987."

Pub. L. 99-272, title IX, §9125(b), Apr. 7, 1986, 100 Stat. 168, provided that: "The amendment made by this section [amending this section] shall apply to calendar years after 1985."

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to hospice care provided on or after Nov. 1, 1983, see section

122(h)(1) of Pub. L. 97-248, as amended, set out as a note under section 1395c of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title XXI, §2131(b), Aug. 13, 1981, 95 Stat. 797, provided that: "The amendment made by subsection (a) [amending this section] is effective for inpatient hospital services or post-hospital extended care services furnished on or after January 1, 1982."

Pub. L. 97-35, title XXI, §2132(b), Aug. 13, 1981, 95 Stat. 797, provided that: "The amendments made by subsection (a) [amending this section] shall apply to inpatient hospital services and post-hospital extended care services furnished in calendar years beginning with calendar year 1982."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 129(c)(3), (4) of Pub. L. 90-248 applicable with respect to services furnished after Mar. 31, 1968, see section 129(d) of Pub. L. 90-248, set out as a note under section 1395d of this title.

Pub. L. 90-248, title I, §135(d), Jan. 2, 1968, 81 Stat. 853, provided that: "The amendments made by this section [amending this section and sections 1395l and 1395cc of this title] shall apply with respect to payment for blood (or packed red blood cells) furnished an individual after December 31, 1967."

Amendment by section 137(b) of Pub. L. 90-248 applicable with respect to services furnished after Dec. 31, 1967, see section 137(c) of Pub. L. 90-248, set out as a note under section 1395d of this title.

REPEAL OF 1988 EXPANSION OF MEDICARE PART A BENEFITS

Pub. L. 101-234, title I, §101(a)-(b)(2), Dec. 13, 1989, 103 Stat. 1979, as amended by Pub. L. 101-508, title IV, §4008(m)(1), Nov. 5, 1990, 104 Stat. 1388-53, provided that:

"(a) IN GENERAL.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), sections 101, 102, and 104(d) (other than paragraph (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) [amending this section and sections 1395c, 1395d, 1395f, 1395k, 1395x, 1395cc, and 1395tt of this title] (in this Act referred to as 'MCCA') are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

"(2) EXCEPTION FOR BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA [amending this section] (relating to deductibles and coinsurance under part A) shall not apply, but only insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act [42 U.S.C. 1395e(a)(2)] (relating to a deduction for blood).

"(b) TRANSITION PROVISIONS FOR MEDICARE BENEFICIARIES.—

"(1) INPATIENT HOSPITAL SERVICES AND POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act [42 U.S.C. 1395d, 1395e], as restored by subsection (a)(1), with respect to inpatient hospital services and extended care services provided on or after January 1, 1990—

"(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness;

"(B) with respect to the limitation (other than the limitation under section 1812(c) of such Act [42 U.S.C. 1395d(c)]) on such services provided in a spell of illness, days of such services before January 1, 1990, shall not be counted, except that days of inpatient hospital services before January 1, 1989, which were applied with respect to an individual after receiving 90 days of services in a spell of illness (commonly known as 'lifetime reserve days') shall be counted;

"(C) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a contin-

uous period beginning before (and including) January 1, 1990, until the end of the period of 30 consecutive days in which the individual is not provided inpatient hospital services or extended care services; and

“(D) the inpatient hospital deductible under section 1813(a)(1) of such Act [42 U.S.C. 1395e(a)(1)] shall not apply—

“(i) in the case of an individual who is receiving inpatient hospital services during a continuous period beginning before (and including) January 1, 1990, with respect to the spell of illness beginning on such date, if such a deductible was imposed on the individual for a period of hospitalization during 1989;

“(ii) for a spell of illness beginning during January 1990, if such a deductible was imposed on the individual for a period of hospitalization that began in December 1989; and

“(iii) in the case of a spell of illness of an individual that began before January 1, 1990.

“(2) HOSPICE CARE.—The restoration of section 1812(a)(4) of the Social Security Act [42 U.S.C. 1395d(a)(4)], effected by subsection (a)(1), shall not apply to hospice care provided during the subsequent period (described in such section as in effect on December 31, 1989) with respect to which an election has been made before January 1, 1990.”

[Pub. L. 101-508, title IV, § 4008(m)(1), Nov. 5, 1990, 104 Stat. 1388-53, provided that amendment by that section to section 101(b)(1)(B) of Pub. L. 101-234, set out above, is effective as if included in enactment of Medicare Catastrophic Coverage Repeal Act of 1989, Pub. L. 101-234.]

HOLD HARMLESS PROVISIONS; APPLICATION OF
SUBSECTION (a)(1) AND (2)

Pub. L. 100-360, title I, § 104(b), July 1, 1988, 102 Stat. 688, as amended by Pub. L. 100-485, title VI, § 608(d)(3)(B), Oct. 13, 1988, 102 Stat. 2413; Pub. L. 101-234, title I, § 101(b)(3), Dec. 13, 1989, 103 Stat. 1980, provided that: “In the case of an individual for whom a spell of illness (as defined in section 1861(a) of the Social Security Act [42 U.S.C. 1395x(a)], as in effect on December 31, 1988) began before January 1, 1989, and had not yet ended as of such date—

“(1)(A) section 1813(a)(1) of such Act [subsec. (a)(1) of this section] (as amended by this subtitle [subtitle A (§§ 101-104) of title I of Pub. L. 100-360]) shall not apply to services furnished during that spell of illness during 1989, and

“(B) if that individual begins a period of hospitalization (as defined in such section) during 1989 after the end of that spell of illness, the first period of hospitalization during 1989 that begins after that spell of illness shall be considered to be (for purposes of such section) the first period of hospitalization that begins during that year; and

“(2) the amount of any deductible under section 1813(a)(2) of such Act (as amended by this subtitle) shall be reduced during that spell of illness during 1989 to the extent the deductible under such section was applied during the spell of illness.”

PROMULGATION OF NEW DEDUCTIBLE

Pub. L. 99-509, title IX, § 9301(c), Oct. 21, 1986, 100 Stat. 1982, directed Secretary of Health and Human Services to provide, within 30 days after Oct. 21, 1986, for publication of inpatient hospital deductible, coinsurance amounts for inpatient hospital services and post-hospital extended care services, and monthly part A premiums for 1987, as modified under the amendment of this section made by subsection (a).

§ 1395f. Conditions of and limitations on payment for services

(a) Requirement of requests and certifications

Except as provided in subsections (d) and (g) and in section 1395mm of this title, payment for

services furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc of this title and only if—

(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 ending 1 calendar year after the date of service;

(2) a physician, or, in the case of services described in subparagraph (B), a physician, or a nurse practitioner, a clinical nurse specialist, or a physician assistant (as those terms are defined in section 1395x(aa)(5) of this title) who does not have a direct or indirect employment relationship with the facility but is working in collaboration with a physician,¹ or, in the case of services described in subparagraph (C), a physician enrolled under section 1395cc(j) of this title, certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations, except that the first of such recertifications shall be required in each case of inpatient hospital services not later than the 20th day of such period) that—

(A) in the case of inpatient psychiatric hospital services, such services are or were required to be given on an inpatient basis, by or under the supervision of a physician, for the psychiatric treatment of an individual; and (i) such treatment can or could reasonably be expected to improve the condition for which such treatment is or was necessary or (ii) inpatient diagnostic study is or was medically required and such services are or were necessary for such purposes;

(B) 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 (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1395x(e) of this title) prior to transfer to the skilled nursing facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services;

(C) in the case of home health services, such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1395x(m)(7) of this

¹ So in original.