

the Social Security Act [42 U.S.C. 1395r(c)(3)] after the date of the enactment of this Act [Dec. 31, 1975].”

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 effective Dec. 1, 1968, see section 145(e) of Pub. L. 90-248, set out as a note under section 1395p of this title.

#### CONSTRUCTION REGARDING NO AUTHORITY TO INITIATE APPLICATION TO YEARS AFTER 2017

Pub. L. 114-74, title VI, §601(e), Nov. 2, 2015, 129 Stat. 596, provided that: “Nothing in subsection (d) [set out as a note below] or the amendments made by this section [amending this section and section 1395w of this title] shall be construed as authorizing the Secretary of Health and Human Services to initiate application of such subsection or amendments for a year after 2017.”

#### CONDITIONAL APPLICATION TO 2017 IF NO SOCIAL SECURITY COLA FOR 2017

Pub. L. 114-74, title VI, §601(d), Nov. 2, 2015, 129 Stat. 596, provided that: “If there is no increase in the monthly insurance benefits payable under title II [probably means title II of act Aug. 14, 1935, ch. 531, which is classified to 42 U.S.C. 401 et seq.] with respect to December 2016 pursuant to section 215(i) [probably means section 215(i) of act Aug. 14, 1935, ch. 531, which is classified to 42 U.S.C. 415(i)], then the amendments made by this section [amending this section and section 1395w of this section] shall be applied as if—

“(1) the reference to ‘2016’ in paragraph (5)(A) of section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)), as added by subsection (a)(2), was a reference to ‘2016 and 2017’;

“(2) the reference to ‘a month during a year, beginning with 2016’ in paragraph (6)(B) of section 1839 of such Act (42 U.S.C. 1395r(a)), as added by subsection (a)(2), was a reference to ‘a month in a year, beginning with 2016 and beginning with 2017, respectively’; and

“(3) the reference to ‘2016’ in subsection (d)(1) of section 1844 of such Act (42 U.S.C. 1395w), as added by subsection (b)(2), was a reference to ‘each of 2016 and 2017’

Any increase in premiums effected under this subsection shall be in addition to the increase effected by the amendments made by subsection (a) [amending this section].”

#### NO CHANGE IN MEDICARE’S DEFINED BENEFIT PACKAGE

Pub. L. 108-173, title II, §241(c), Dec. 8, 2003, 117 Stat. 2221, provided that: “Nothing in this part [probably should be this section, enacting former section 1395w-29 of this title and amending this section and sections 1395w and 1395w-23 of this title] (or the amendments made by this part) shall be construed as changing the entitlement to defined benefits under parts A and B of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq., 1395j et seq.].”

#### DETERMINATION OF PREMIUM AMOUNTS BY SECRETARY

Pub. L. 90-97, §2, Sept. 30, 1967, 81 Stat. 249, provided that: “Notwithstanding the provisions of section 1839(a) and (b) of the Social Security Act [42 U.S.C. 1395r(a), (b)]—

“(1) the dollar amount applicable for premiums under part B of title XVIII of such Act [42 U.S.C. 1395j et seq.] for each month before April 1968 shall be \$3, and

“(2) the Secretary of Health, Education, and Welfare may determine and promulgate such dollar amount for months after March 1968 and before January 1970 at any time on or before December 31, 1967.”

#### PERSONS ENROLLING BEFORE APRIL 1, 1968, WHO DID NOT ENROLL DURING THEIR INITIAL ENROLLMENT PERIOD

Pub. L. 90-97, §3(b), Sept. 30, 1967, 81 Stat. 250, provided that: “In the case of any individual who did not

enroll in the insurance program established under part B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.] in his initial enrollment period, but does so enroll before April 1, 1968, the enrollment period in which he so enrolls shall, for purposes of section 1839(c) of such Act [42 U.S.C. 1395r(c)], be deemed to have closed on December 31, 1967.”

#### § 1395s. Payment of premiums

##### (a) Deductions from section 402 or 423 monthly benefits

(1) In the case of an individual who is entitled to monthly benefits under section 402 or 423 of this title, his monthly premiums under this part shall (except as provided in subsections (b)(1) and (c)) be collected by deducting the amount thereof from the amount of such monthly benefits. Such deduction shall be made in such manner and at such times as the Commissioner of Social Security shall by regulation prescribe. Such regulations shall be prescribed after consultation with the Secretary.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates from benefits under section 402 or 423 of this title which are payable from such Trust Fund. Such transfer shall be made on the basis of a certification by the Commissioner of Social Security and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

##### (b) Deductions from railroad retirement annuities or pensions

(1) In the case of an individual who is entitled to receive for a month an annuity under the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.] (whether or not such individual is also entitled for such month to a monthly insurance benefit under section 402 of this title), his monthly premiums under this part shall (except as provided in subsection (c)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

##### (c) Portion of monthly premium in excess of deducted amount

If an individual to whom subsection (a) or (b) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to

the Secretary such portion of the monthly premiums for such period as he desires.

**(d) Deductions from civil service retirement annuities**

(1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5 or any other law administered by the Director of the Office of Personnel Management providing retirement or survivorship protection, to whom neither subsection (a) nor subsection (b) applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (a) nor subsection (b) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health and Human Services to the Director of the Office of Personnel Management, be collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Director of the Office of Personnel Management may determine. The Director of the Office of Personnel Management shall furnish such information as the Secretary of Health and Human Services may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 or 8903a of title 5 may reimburse each annuitant enrolled in such plan an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Director of the Office of Personnel Management, to the Federal Supplementary Medical Insurance Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Director of the Office of Personnel Management and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

**(e) Manner and time of payment prescribed by Secretary**

In the case of an individual who participates in the insurance program established by this part but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (c) applies, the premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe.

**(f) Deposit of amounts in Treasury**

Amounts paid to the Secretary under subsection (c) or (e) shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.

**(g) Premium payability period**

In the case of an individual who participates in the insurance program established by this

part, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

**(h) Exempted monthly benefits**

In the case of an individual who is enrolled under the program established by this part as a member of a coverage group to which an agreement with a State entered into pursuant to section 1395v of this title is applicable, subsections (a), (b), (c), and (d) of this section shall not apply to his monthly premium for any month in his coverage period which is determined under section 1395v(d) of this title.

**(i) Adjustments for individuals enrolled in Medicare+Choice plans**

In the case of an individual enrolled in a Medicare+Choice plan, the Secretary shall provide for necessary adjustments of the monthly beneficiary premium to reflect 80 percent of any reduction elected under section 1395w-24(f)(1)(E) of this title and to reflect any credit provided under section 1395w-24(b)(1)(C)(iv)<sup>1</sup> of this title. To the extent to which the Secretary determines that such an adjustment is appropriate, with the concurrence of any agency responsible for the administration of such benefits, such premium adjustment may be provided directly, as an adjustment to any social security, railroad retirement, or civil service retirement benefits, or, in the case of an individual who receives medical assistance under subchapter XIX for medicare costs described in section 1396d(p)(3)(A)(ii) of this title, as an adjustment to the amount otherwise owed by the State for such medical assistance.

(Aug. 14, 1935, ch. 531, title XVIII, § 1840, as added Pub. L. 89-97, title I, § 102(a), July 30, 1965, 79 Stat. 306; amended Pub. L. 89-384, § 4(c), Apr. 8, 1966, 80 Stat. 106; Pub. L. 90-248, title I, § 166, title IV, § 403(g), Jan. 2, 1968, 81 Stat. 874, 932; Pub. L. 92-603, title II, §§ 201(c)(6), 263(a)-(d)(3), Oct. 30, 1972, 86 Stat. 1373, 1448, 1449; Pub. L. 93-445, title III, § 306, Oct. 16, 1974, 88 Stat. 1358; Pub. L. 98-369, div. B, title III, § 2354(b)(11), title VI, § 2663(j)(2)(F)(ii), July 18, 1984, 98 Stat. 1101, 1170; Pub. L. 99-53, § 2(g), June 17, 1985, 99 Stat. 94; Pub. L. 100-360, title II, § 212(b)(1), July 1, 1988, 102 Stat. 740; Pub. L. 100-485, title VI, § 608(d)(10)(B), Oct. 13, 1988, 102 Stat. 2415; Pub. L. 101-234, title II, § 202(a), Dec. 13, 1989, 103 Stat. 1981; Pub. L. 103-296, title I, § 108(c)(2), Aug. 15, 1994, 108 Stat. 1485; Pub. L. 106-554, § 1(a)(6) [title VI, § 606(a)(2)(B)(ii)], Dec. 21, 2000, 114 Stat. 2763, 2763A-557; Pub. L. 108-173, title II, § 222(l)(2)(B), Dec. 8, 2003, 117 Stat. 2206.)

**Editorial Notes**

REFERENCES IN TEXT

The Railroad Retirement Act of 1974, referred to in subsec. (b)(1), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding

<sup>1</sup> See References in Text note below.

section 231 of Title 45, section 231t of Title 45, and Tables.

Section 1395w-24(b)(1)(C)(iv) of this title, referred to in subsec. (i), was redesignated section 1395w-24(b)(1)(C)(v) of this title by Pub. L. 111-148, title III, § 3202(b)(1)(B), Mar. 23, 2010, 124 Stat. 454, and subsequently redesignated section 1395w-24(b)(1)(C)(viii) of this title by Pub. L. 111-152, title I, § 1102(d)(2), Mar. 30, 2010, 124 Stat. 1045.

#### AMENDMENTS

2003—Subsec. (i). Pub. L. 108-173 inserted “and to reflect any credit provided under section 1395w-24(b)(1)(C)(iv) of this title” after “section 1395w-24(f)(1)(E) of this title” in first sentence.

2000—Subsec. (i). Pub. L. 106-554 added subsec. (i).

1994—Subsec. (a)(1). Pub. L. 103-296, § 108(c)(2)(A), substituted “Commissioner of Social Security” for “Secretary” and inserted at end “Such regulations shall be prescribed after consultation with the Secretary.”

Subsec. (a)(2). Pub. L. 103-296, § 108(c)(2)(B), substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1989—Subsec. (i). Pub. L. 101-234 repealed Pub. L. 100-360, § 212(b)(1), and provided that the provisions of law amended or repealed by such section are restored or revised as if such section had not been enacted, see 1988 Amendment note below.

1988—Subsec. (i). Pub. L. 100-485 substituted “Supplementary” for “Supplemental”.

Pub. L. 100-360 added subsec. (i) relating to transfer to flat prescription drug premiums to Federal Catastrophic Drug Insurance Trust Fund.

1985—Subsec. (d)(1). Pub. L. 99-53 inserted reference to section 8903a of title 5.

1984—Subsec. (a)(2). Pub. L. 98-369, § 2663(j)(2)(F)(ii), substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (d)(1). Pub. L. 98-369, § 2354(b)(11), substituted “Director of the Office of Personnel Management” for “Civil Service Commission”.

Pub. L. 98-369, § 2663(j)(2)(F)(ii), substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (d)(2). Pub. L. 98-369, § 2354(b)(11), substituted “Director of the Office of Personnel Management” for “Civil Service Commission”.

1974—Subsec. (b)(1). Pub. L. 93-445 substituted “under the Railroad Retirement Act of 1974” for “or pension under the Railroad Retirement Act of 1937”.

1972—Subsec. (a)(1). Pub. L. 92-603, §§ 201(c)(6)(A), 263(a), substituted “subsections (b)(1) and (c)” for “subsection (d)” and inserted reference to section 423 of this title.

Subsec. (a)(2). Pub. L. 92-603, § 201(c)(6)(B), inserted reference to section 423 of this title.

Subsec. (b)(1). Pub. L. 92-603, § 263(b), inserted “(whether or not such individual is also entitled for such month to a monthly insurance benefit under section 402 of this title)” after “1937” and substituted “subsection (c)” for “subsection (d)”.

Subsec. (c). Pub. L. 92-603, § 263(c), struck out subsec. (c) covering individuals entitled both to monthly benefits under section 402 of this title and to an annuity or pension under Railroad Retirement Act of 1937 and redesignated former subsec. (d) as (c).

Subsec. (d). Pub. L. 92-603, § 263(c), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 92-603, § 263(c), (d)(1), redesignated subsec. (f) as (e) and substituted “subsection (c)” for “subsection (d)”. Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 92-603, § 263(c), (d)(2), redesignated subsec. (g) as (f) and substituted “subsections (c) or (e)” for “subsections (d) or (f)”. Former subsec. (f) redesignated (e) and amended.

Subsec. (g). Pub. L. 92-603, § 263(c), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f) and amended.

Subsecs. (h), (i). Pub. L. 92-603, § 263(c), (d)(3), redesignated subsec. (i) as (h) and substituted “(c) and (d)” for “(c), (d), and (e)”. Former subsec. (h) redesignated (g).

1968—Subsec. (e). Pub. L. 90-248 provided for reimbursement of civil service retirement annuitants for certain premium payments under supplementary medical insurance program, and substituted “subchapter III of chapter 83 of Title 5 or any other law” and “such other law” for “the Civil Service Retirement Act, or other Act” and “such other Act”, in pars. (1) and (2), respectively.

1966—Subsec. (i). Pub. L. 89-384 added subsec. (i).

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

References to Medicare+Choice deemed to refer to Medicare Advantage or MA, subject to an appropriate transition provided by the Secretary of Health and Human Services in the use of those terms, see section 201 of Pub. L. 108-173, set out as a note under section 1395w-21 of Title 42, The Public Health and Welfare.

##### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-173 applicable with respect to plan years beginning on or after Jan. 1, 2006, see section 223(a) of Pub. L. 108-173, set out as a note under section 1395w-21 of this title.

##### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-554 applicable to years beginning with 2003, see section 1(a)(6) [title VI, § 606(b)] of Pub. L. 106-554, set out as a note under section 1395r of this title.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

##### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-234 effective Jan. 1, 1990, see section 202(b) of Pub. L. 101-234, set out as a note under section 401 of this title.

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2354(b)(11) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2354(e)(1) of Pub. L. 98-369, set out as a note under section 1320a-1 of this title.

Amendment by section 2663(j)(2)(F)(ii) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

##### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of this title.

##### EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-603, title II, § 263(f), Oct. 30, 1972, 86 Stat. 1449, provided that: “The amendments made by this section [amending this section and sections 1395t and 1395u of this title] with respect to collection of premiums shall apply to premiums becoming due and payable after the fourth month following the month in which this Act is enacted [October 1972].”

**§ 1395t. Federal Supplementary Medical Insurance Trust Fund**

**(a) Creation; deposits; fund transfers**

There is hereby created on the books of the Treasury of the United States a trust fund to be known as the “Federal Supplementary Medical Insurance Trust Fund” (hereinafter in this section referred to as the “Trust Fund”). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 401(i)(1) of this title, such amounts as may be deposited in, or appropriated to, such fund as provided in this part or section 9008(c)<sup>1</sup> of the Patient Protection and Affordable Care Act of 2009, and such amounts as may be deposited in, or appropriated to, the Medicare Prescription Drug Account established by section 1395w-116 of this title or the Transitional Assistance Account established by section 1395w-141(k)(1) of this title.

**(b) Board of Trustees; composition; meetings; duties**

With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the “Board of Trustees”) composed of the Commissioner of Social Security, the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services, all ex officio, and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate. A member of the Board of Trustees serving as a member of the public and nominated and confirmed to fill a vacancy occurring during a term shall be nominated and confirmed only for the remainder of such term. An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member’s term until the earlier of the time at which the member’s successor takes office or the time at which a report of the Board is first issued under paragraph (2) after the expiration of the member’s term. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the “Managing Trustee”). The Administrator of the Centers for Medicare & Medicaid Services shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years; Each report provided under paragraph (2) beginning with the report in 2005 shall include the information specified in section 801(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.<sup>2</sup>

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall also include an actuarial opinion by the Chief Actuary of the Centers for Medicare & Medicaid Services certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable. Such report shall be printed as a House document of the session of the Congress to which the report is made. A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund.

**(c) Investment of Trust Fund by Managing Trustee**

It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. See 2003 Amendment note below.