Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

YOUR HOME VISITING NURSE SERVICES, INC. *v.* SHALALA, SECRETARY OF HEALTH AND HUMAN SERVICES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 97–1489. Argued December 2, 1998– Decided February 23, 1999

Under the Medicare Act, a provider seeking reimbursement for covered health services from respondent Secretary of Health and Human Services submits a yearly cost report to a fiscal intermediary (generally a private insurance company), which issues a Notice of Program Reimbursement (NPR) determining the provider's reimbursement for the year. The Act gives a dissatisfied provider 180 days to appeal a reimbursement determination to the Provider Reimbursement Review Board, whose decision is subject to judicial review in federal district court. 42 U. S. C. §1395*oo*. A regulation also gives the provider three years within which to ask the intermediary to reopen a determination. 42 CFR §405.1885. Petitioner provider did not seek administrative review of certain NPRs issued by its fiscal intermediary, but did within three years ask the intermediary to reopen the determination. The intermediary denied the request, and the Board dismissed petitioner's subsequent appeal of that denial on the ground that §405.1885 divested it of jurisdiction to review an intermediary's refusal to reopen a reimbursement determination. In dismissing petitioner's ensuing suit, the District Court agreed with the Board's determination and rejected petitioner's alternative contention that the federal-question statute or the mandamus statute gave the court jurisdiction to review the intermediary's refusal directly. The Court of Appeals affirmed.

Held:

1. The Board does not have jurisdiction to review a fiscal intermediary's refusal to reopen a reimbursement determination. The regu-

lations do not confer such jurisdiction, so petitioner must establish it on the basis of the Act. Section 1395*oo*(a)(1)(A)(i) authorizes a provider to obtain a hearing before the Board if the provider "is dissatisfied with a final determination of . . . its fiscal intermediary . . . as to the amount of total program reimbursement due the provider . . . ." The Secretary's reading of §1395*oo*(a)(1)(A)(i)– that a refusal to reopen is not a "final determination . . . as to the amount of . . . reimbursement" but only a refusal to make a new determination– is well within the bounds of reasonable interpretation, and hence entitled to deference under *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837, 842. The reasonableness of this construction is further confirmed by the holding in *Califano* v. *Sanders*, 430 U. S. 99, that §205(g) of the Social Security Act does not authorize judicial review of the Secretary's decision not to reopen a previously adjudicated benefits claim. Finally, contrary to petitioner's argument, the Secretary's position is not inconsistent with §1395x(v)(1)(A)(ii)'s requirement that the cost-reimbursement regulations "provide for . . . suitable retroactive corrective adjustments where, for a provider . . . for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive." See *Good Samaritan Hospital* v. *Shalala*, 508 U. S. 402; *ICC* v. *Locomotive Engineers*, 482 U. S. 270, 282. Pp. 2–7.

2. Petitioner is not otherwise entitled to judicial review of the intermediary's reopening decision under the federal-question statute, see *Heckler* v. *Ringer*, 466 U. S. 602, 615, the mandamus statute, see *id*. at 617; *ICC* v. *Locomotive Engineers*, *supra*, at 282, or the judicial-review provision of the Administrative Procedure Act, see *Califano* v. *Sanders*, *supra*. Pp. 7–8.

132 F. 3d 1135, affirmed.

SCALIA, J., delivered the opinion for a unanimous Court.