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# Social Security Related Legislation in 1987\*

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On December 22, 1987, President Reagan signed into law the Omnibus Budget Reconciliation Act (OBRA) of 1987 (Public Law 100-203). This bill contains major legislation affecting many Federal programs including those administered by the Social Security Administration (SSA). Among the SSA-related provisions are several Social Security coverage and revenue provisions recommended by the Administration in the fiscal year 1988 budget. Some of the remaining Old-Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) provisions were recommended by the Administration; most originated in the Congress.

## OASDI Provisions

Public Law 100-203, enacted December 22, 1987, includes numerous provisions related to the OASDI programs.

### Section 9001: Coverage of Inactive Duty Military Training

Extends coverage to uniformed members of the Armed Forces reserve components while they are on inactive duty training (such as weekend drills), but without making them eligible for deemed military service wage credits. Under prior law, reservists were covered only for periods of full-time active duty or active duty for training. Effective with respect to remuneration paid after December 31, 1987.

### Section 9002: Coverage of Agricultural Labor

Covers all cash remuneration paid by an employer to an employee for agricultural services in a year if the employer's expenditures for agricultural labor in such year are \$2,500 or more. Eliminates the provision that covers agricultural employees who work at least 20 days for an employer for cash pay determined on an hourly or other time basis. The provision that covers agricultural employees paid \$150 or more in a year by an employer continues to apply in the case of employers

who spend less than \$2,500 in a year for agricultural services. Effective with respect to remuneration paid after December 31, 1987.

### Section 9003: Coverage of the Employer Cost of Group-Term Life Insurance

Covers as wages the employer cost (premiums) of group-term life insurance to the extent that the value of such insurance paid for by the employer exceeds \$50,000. This change conforms the Social Security treatment of the cost of employer-provided group-term life insurance to the income tax treatment. Under prior law, the employer cost of any group-term life insurance provided for an employee was excluded for Social Security purposes regardless of the amount of insurance provided. Effective with respect to group-term life insurance in effect after December 31, 1987.

### Section 9004: Coverage of Spouses

Covers services performed by a person in the trade or business of his or her spouse. Effective with respect to remuneration paid after December 31, 1987.

### Section 9005: Coverage of Children at Age 18 in the Employ of a Parent

Covers services performed by a child in the trade or business of his or her parent if the child has attained age 18. Services performed by a child aged 21 or older in such employ continue to be covered under existing law regardless of whether the services are in the parent's trade or business. Effective with respect to remuneration paid after December 31, 1987.

### Section 9006: Employer Tax on Tips

Requires employers to pay Social Security taxes on the full amount of covered tips. For employer Social Security tax liability purposes, tips not reported by an employee are deemed to be paid on the date that the Internal Revenue Service notifies the employer of the taxes due and requests payment. Under prior law, employers paid Social Security taxes only on the amount of covered tips deemed to be wages for Federal minimum wage purposes (that is, the amount of tips needed to

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bring the employee's remuneration to the minimum wage level). Effective with respect to tips received after December 31, 1987.

The purpose of this provision is to ensure that the Social Security trust funds are not disadvantaged due to benefits based on tips by requiring employer Social Security taxes to be paid on the full amount of covered tips.

### **Section 9007: Government Pension Offset/FERS**

Requires Federal employees who opt into the Federal Employees Retirement System (FERS) after December 31, 1987 (for example, rehires), to have 5 years of Federal employment covered by Social Security in order to be exempt from the Government pension offset (GPO) provisions—the provision in current law under which Social Security spouse's and surviving spouse's benefits are reduced if the employee receives a Government pension based on his or her own work in noncovered employment. Employees who opted into FERS by December 31, 1987, continue to be exempt from the GPO provisions.

This provision is intended to close a loophole in the Social Security law that allowed Government workers opting into FERS to avoid the GPO and collect a full spousal Social Security benefit plus a full Government pension.

### **Section 9008: Coverage of Certain Police Officers and Fire Fighters in Iowa**

Permits Iowa to modify its Social Security coverage agreement to provide retrospective and prospective coverage for certain police officers and fire fighters whose earnings were erroneously reported for Social Security purposes. If this coverage is not provided, the employees involved will lose years of Social Security credits that they thought they had acquired. Effective on enactment; the agreement must be modified before January 1, 1989.

### **Section 9009: Continuation of Disability Benefits During Appeal**

Extends for 1 year the provision that temporarily continues, up to the time of an administrative law judge (ALJ) decision, the payment of Social Security disability insurance benefits (including Medicare benefits based on an individual's disability) to beneficiaries who appeal a medical cessation determination. The extended provision applies with respect to determinations made prior to January 1, 1989. The last month for which benefit payments can be continued is June 1989.

The intent of the 1-year extension is to maintain the

current level of protection while the Congress has an opportunity to consider the results of a congressionally mandated study, expected to be submitted by the Secretary in 1988, on the effects of the benefit continuation provision on rates of appeal to ALJs and on trust fund expenditures.

### **Section 9010: Extension of Disability Reentitlement Period From 15 Months to 36 Months**

Extends from 15 months to 36 months the period, following completion of a 9-month trial work period, during which the cash benefits of a disabled Social Security beneficiary whose benefits are stopped because of work activity may be reinstated without the need to file a new application. However, Medicare coverage would not continue beyond the period provided in prior law.

The provision is effective January 1, 1988, and applies to individuals who (1) are entitled to Social Security disability insurance benefits for any month after December 1987, or (2) were entitled to such benefits for any month before January 1988, and whose eligibility to the 15-month reentitlement period under prior law had not elapsed as of January 1, 1988.

The intent of this provision is to strengthen work incentives by lengthening the period during which a person's benefits could be automatically resumed in the event that the person is unable, because of a medical impairment, to continue to work.

### **Section 9021: Moratorium on Reductions in Attorney Fees; Studies of Attorney Fee Payment System**

This provision nullifies an SSA procedure regarding ALJ approval of attorney fees that had been recently rescinded by SSA. On March 31, 1987, SSA had instituted a procedure that reduced from \$3,000 to \$1,500 the upper limit on an attorney's fee that could be approved by an ALJ, without referral to the Regional Chief Administrative Law Judge; this policy was rescinded by SSA on December 16, 1987.

This provision also prohibits SSA from issuing any new attorney fee rules and regulations affecting title II claims prior to July 1, 1989.

In addition, it requires the Secretary, in consultation with individuals who represent attorney and claimant viewpoints, to conduct a study of the title II attorney fee payment process that:

- assesses levels of reimbursement to attorneys and proposes alternative methods for establishing fees, taking into account the contingent nature of most attorney-client fee arrangements; and

- suggests changes to eliminate unnecessary delays in the process.

This provision also requires the Comptroller General to conduct a study of the fee approval system, including:

- the impact of the current system on claimants and attorneys;
- identification of obstacles to timely payment of fees under present law; and
- an assessment of the effect, if any, that the \$1,500 ALJ fee-approval limit had on disability claimants' access to legal representation.

Both studies must be submitted to the Congress by July 1, 1988.

### **Section 9022: Social Security Treatment of Corporate Directors' Earnings**

Provides, for Social Security purposes, in cases where a corporation director is paid in a taxable year for services rendered in a prior year, the income shall be deemed to have been derived (and received) in the year in which the services were performed. Effective with respect to services performed in taxable years beginning after December 31, 1987.

The purpose of this provision is to prevent corporate directors from escaping Social Security self-employment taxes and avoiding the retirement earnings test by entering into deferred compensation arrangements that provide for payment of several years' fees in a year, usually at age 70, when the retirement earnings test no longer applies.

## **Miscellaneous Provisions**

Public Law 100-203 also contains a number of general provisions of relevance to SSA-administered programs.

### **Section 9401: Restoration of Trust Funds for 1987**

Provides for restoration to Federal trust funds (including the Social Security trust funds) of any obligations disinvested or not issued timely and any associated interest loss due to debt issuance suspension periods beginning on or after July 18, 1987, and ending before January 1, 1988. (The OASDI Trust Funds were not affected by this provision.)

### **Section 9402: Extension of Program for Internal Revenue Service Collection of Nontax Debts Owed to Federal Agencies**

Extends authority through June 30, 1988, for the Internal Revenue Service to collect nontax debts owed to Federal agencies by reducing the amount of any tax re-

fund due to a person by the amount of a past due, legally enforceable, nontax debt owed to the agency and paying that amount to the agency. As under prior law, OASDI overpayments continue to be excluded from this tax refund offset program. This provision requires a Government Accounting Office study of the effect of this program on income tax compliance by April 1, 1989.

### **Section 10705: Organizations Charging for Services Available from the Federal Government**

Imposes a penalty under the Internal Revenue Code on section 501(c)(3) tax-exempt organizations that sell information or services that could be readily obtained free of charge, or for a nominal charge, by the public from the Federal Government. Applies to tax-exempt organizations that fail to make an express statement in their solicitations that such information and services can be obtained from the Government, provided the failure to make such a statement is due to intentional disregard of the disclosure requirement. The provision is effective with respect to solicitations made after January 31, 1988.

### **Sections 2101-2106: National Economic Commission**

Provides for the appointment of a National Economic Commission to make specific recommendations regarding the (1) methods to reduce the Federal budget deficit while promoting economic growth and encouraging saving and capital formation and (2) means to ensure that the burden of achieving Federal budget reduction goals does not undermine economic growth and is equitably distributed. The Commission is to submit a report of its findings to the President no later than March 1, 1989.

## **SSI Provisions**

A number of provisions in Public Law 100-203 affect the Supplemental Security Income (SSI) and related programs.

### **Section 9101: Permanent Extension of Disregard of Nonprofit Organizations' In-Kind Assistance to SSI and AFDC Recipients**

Restores and makes permanent the expired temporary exclusion from consideration of income under the SSI and Aid to Families With Dependent Children (AFDC) programs of certain home energy and support and maintenance assistance provided on the basis of need by

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private nonprofit agencies, fuel suppliers, and regulated or municipal utilities. (The statutory exclusion expired September 30, 1987, but the exclusion was continued, pending enactment of legislation, under the Secretary's demonstration and waiver authority.) Effective October 1, 1987.

The decision to make this exclusion permanent reflects the positive experience with the temporary provision and an ongoing desire not to discourage the provision of such charitable assistance.

### **Section 9103: Exclusion of Real Property When It Cannot Be Sold**

Excludes from consideration as resources real property that cannot be sold because it is jointly owned and its sale would cause the other owner(s) undue hardship due to loss of housing, or its sale is barred by a legal impediment, or the owner's reasonable efforts to sell have been unsuccessful. Effective April 1, 1988.

The provision is intended to ensure that an individual is not found to be ineligible for SSI due to the ownership or joint ownership of real property that is either not available for sale or unsalable.

### **Section 9104: Adjustment of Penalty Where Asset Is Transferred for Less Than Fair Market Value**

Provides for suspension, if the Secretary determines that undue hardship would result, of the provision of law requiring the inclusion (for 24 months) of the uncompensated value of assets disposed of for less than fair market value in the determination of resources. Effective April 1, 1988.

This provision establishes a hardship clause under SSI law. Medicaid provisions relating to the transfer of resources already had such a clause, and it apparently was thought that such a provision should also be included in the SSI law.

### **Section 9105: Exclusion of Interest on Burial Accounts**

Excludes interest and appreciation earned on burial funds or plans by excluding all accounts designated for the payment of burial expenses or prepaid burial plans not in excess of \$1,500 from the determination of resources, regardless of whether the value of the fund or plan caused the resources to exceed the applicable resources limit.

This provision will result in the more equitable treatment of burial funds. Under prior law, persons with assets, including burial funds, over the limit could have the interest on and accruals to burial funds excluded

from income while persons with less total resources had the interest counted and therefore had SSI payments reduced.

Also provides that if amounts from the excluded burial funds are spent for anything other than the designated purpose, the reduction of SSI payments as a penalty for such use would be limited to cases in which the amount of funds so spent would have, if they had not been excluded from resources, caused resources to exceed the limit. Effective April 1, 1988.

### **Section 9106: Treatment of Certain Welfare Benefits Under SSI Retrospective Accounting**

Provides that income received as assistance under title IV-A (AFDC) and title IV-E (foster care) of the Social Security Act, refugee cash assistance, Cuban/Haitian entrant assistance, and general and child welfare assistance provided by the Bureau of Indian Affairs (BIA) will be considered in determining an individual's SSI payment only for the month in which the AFDC, foster care, refugee, or BIA assistance is received, and not for any other month, by making retrospective accounting inapplicable to these types of payments. Effective April 1, 1988.

Under retrospective accounting, payments received in the month that SSI eligibility begins are counted for that month and the following 2 months, and such payments received in each month subsequent to the first month of SSI eligibility are counted in determining the amount of SSI payments for the second month following receipt. The result is reduced SSI payments for an additional 2 months after the individual's assistance payments have actually terminated. This provision is designed to address this situation by providing a specific exception to the usual retrospective accounting rule for these assistance payments.

### **Section 9107: Technical Amendment Relating to the 1986 Amendment Concerning the Treatment of Certain Couples in Medical Institutions**

Extends the present provision that allows a State's Medicaid plan to treat couples residing in the same room in an institution as couples (rather than as individuals), if treating them as individuals would disadvantage either one under Medicaid or other State programs, to couples living in separate rooms in the same institution. Effective November 10, 1986 (date of enactment of Public Law 99-643).

This provision allows States further flexibility to use rules other than SSI rules in determining the treatment of couples residing in institutions. (Under SSI rules, these couples are considered as living apart and, therefore, as individuals.)

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## **Section 9108: Extension of Deadline for Disabled Widows to Apply for Medicaid Protection**

Extends for an additional 12 months (until July 1, 1988) the period established under the 1986 provision of SSI law that permits disabled widows or widowers to reestablish Medicaid protection if they lost SSI eligibility, and thus Medicaid eligibility, because of an increase, first payable in February 1984, in the amount of title II benefits resulting from the elimination of the reduction factor for receipt of widow(er)'s benefits before age 60. Effective July 1, 1987.

This amendment reflects a concern that some individuals who might potentially qualify for restoration of their Medicaid eligibility might not have received adequate notice of their possible eligibility in time to apply before the original June 30, 1987, deadline. The original legislation, Public Law 99-272, the 1985 Consolidated Omnibus Budget Reconciliation Act (COBRA), enacted April 7, 1986 (not the 1984 amendments, as the title suggests) specifically required States to notify potentially eligible persons and to solicit applications from them.

## **Section 9109: Increase in SSI Emergency Advance Payments**

Increases the maximum emergency advance payment amount that can be paid directly to presumptively eligible SSI applicants faced with financial emergencies. The amount increases from \$100 to the amount of the Federal benefit rate (\$354/\$532 in 1988), plus any federally administered State supplement. Effective on enactment.

The provision improves the adequacy of the advance assistance that can be provided in emergencies. The \$100 limit was established in the original SSI legislation, which provided a \$130 maximum monthly SSI payment for an individual.

## **Section 9110: Modification of the Interim Assistance Reimbursement Program**

Extends interim assistance reimbursement to situations in which payments are made by States or political subdivisions to persons whose SSI payments were suspended or terminated and who subsequently are found to be eligible for such benefits. Effective with January 1989, or sooner if administratively feasible.

Interim assistance reimbursement provides a way for States to be reimbursed directly for the funds they provide to individuals awaiting an SSI eligibility determination. Before this amendment, SSA could use this mechanism to reimburse States only in cases where initial applications for SSI were pending. This amendment is designed to enable States to recover more of the in-

terim assistance they provide and to reduce windfalls to persons who otherwise would receive SSI payments for the same months that States provided them with assistance and who fail to refund the assistance amount to the States.

The conferees did not agree to the House provision to extend interim assistance reimbursement to cover situations of lost and stolen checks. However, the conference report directs SSA to take steps to improve its procedures for responding to the needs of recipients who are facing emergency situations because their checks have been lost or stolen.

## **Section 9111: Special Notice to Blind Recipients**

Requires the establishment of special notice procedures for persons applying for or receiving SSI payments on the basis of blindness. At the blind person's option, notices of all decisions, determinations, or actions affecting the individual's rights would either be (1) sent by certified mail, (2) followed up by a telephone contact within 5 days of the mailing of the regular notice, or (3) sent by some other alternative procedure developed by the Secretary and agreed to by the individual.

Effective July 1, 1988, for persons newly entitled on or after that date; effective within 1 year of the July 1, 1988, effective date for all individuals already receiving benefits on the basis of blindness on the effective date.

Requires the Secretary to study the feasibility of extending special notification rights to all individuals who may lack the ability to read and comprehend regular written notices and to report the results of the study to Congress within 12 months of enactment.

The provision is meant to help assure that an individual applying for or receiving SSI payments on the basis of blindness will be fully apprised of all decisions, determinations, or actions affecting his or her rights.

## **Section 9112: Rehabilitation Services for Blind SSI Recipients**

Allows SSI recipients eligible on the basis of blindness to continue receiving SSI payments (and, therefore, vocational rehabilitation services) after they have recovered if (1) they are participating in approved vocational rehabilitation programs and (2) the Commissioner of Social Security determines that completion or continuation of such participation would increase the likelihood that they would be removed permanently from the SSI program rolls. Effective April 1, 1988.

This provision extends to blind SSI recipients the same treatment afforded to disabled SSI recipients and Social Security disabled-worker beneficiaries in 1980. The general provision allows persons who recover (unexpectedly) while participating in a rehabilitation program

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to complete that program by continuing payments to the individual for the vocational rehabilitation costs.

### **Section 9113: Extending the Number of Months That an Individual in a Public Emergency Shelter Can be Eligible for SSI Payments**

Allows an individual residing in a public emergency shelter for the homeless to be eligible to receive SSI payments for up to 6 months in a 9-month period. Effective beginning January 1, 1988.

Prior law permitted SSI eligibility in public emergency shelters for 3 months in any 12-month period. The purpose of extending the period of payment receipt during a stay in a shelter is to allow the individual to accumulate enough funds to be able to move into permanent housing.

### **Section 9114: Exclusion of Underpayments from Resources**

Provides that any retroactive payment of benefits under title II or title XVI received during fiscal years 1988 and 1989 shall be excluded from resources for 9 months. This provision replaces, with respect to underpayments received in this limited 2-year period, the regular 6-month exclusion from resources of retroactive benefit payments made under the OASDI and SSI programs.

The amendment was prompted by an expectation that, as a result of court decisions requiring the reopening and readjudicating of a substantial number of disability determinations, some disabled individuals will be entitled to substantial back awards of Social Security benefits in the period October 1987-October 1989. The disregard of retroactive payments as resources for 9 months is intended to give these individuals a longer time to use the funds, presumably to pay debts incurred during extended periods of nonpayment of benefits, before they could affect SSI eligibility.

### **Section 9115: Continuation of Full Benefit Standard for Individuals Temporarily Institutionalized**

Permits the continued payment of SSI benefits for up to 3 months, at the rate that was applicable in the month prior to the first full month of institutionalization, for individuals whose expected institutional stay upon admission is not likely to exceed 3 months and for whom the receipt of benefits is necessary to maintain living arrangements to which they may return. Under prior law, some of these individuals would be ineligible and others would receive only a personal-needs allowance of up to \$25 a month (\$30 beginning July 1, 1988). Effective

July 1, 1988. The conference report directs SSA to evaluate the effects of this provision and to report its findings to the Congress by December 22, 1990 (within 3 years of enactment).

Although an individual's basic needs are taken care of during a stay in an institution, if he or she intends to return to an outside living arrangement, the bills for housing and utilities, for example, may continue. The provision is designed to be more responsive to the needs of individuals who will be only temporarily institutionalized.

### **Section 9116: Retention of Medicaid When SSI Benefits Are Lost Upon Entitlement to Early Widow's or Widower's Insurance Benefits**

Restores or continues Medicaid coverage for persons aged 60 or older who are eligible for Social Security benefits as widows or widowers (but not eligible for Medicare) and who become ineligible for SSI payments or State supplementation because of the receipt of old-age or survivors insurance benefits under Social Security. This provision is effective with respect to Medicaid eligibility beginning after June 30, 1988, regardless of when ineligibility for SSI payments due to receipt of old-age or survivors insurance benefits under Social Security occurred (or occurs).

The Secretary is required, by March 22, 1988, to notify persons aged 60-64 as of April 1, 1988, who may be affected by this provision, and to advise them of the new law and the need to contact the appropriate State agency concerning possible reinstatement of Medicaid eligibility. Any determination of eligibility for Medicaid under this provision will be made by the appropriate State agency.

This provision is intended to prevent the loss of Medicaid protection that occurs when disabled SSI recipients who are widows or widowers become entitled to Social Security benefits based on age, and whose benefit amounts are high enough to cause SSI ineligibility. Under present law, a person may qualify for disability benefits under SSI but may not be eligible for disability benefits under Social Security because of either the work requirements for Social Security disability insurance benefits or the more stringent definition of disability in the case of disabled widow(er)'s benefits. Such persons may nevertheless qualify for other Social Security cash benefits at ages 60-64 and are required to apply for any and all such benefits.

### **Section 9117: Demonstration Program to Assist Homeless Individuals**

Authorizes a total of \$3.75 million over 2 years (fiscal years 1988 and 1989) and such sums as are necessary

thereafter for demonstration programs to be carried out by the States to ensure that homeless individuals are aware of the availability of SSI and other programs under the Social Security Act. The Secretary is required to report at least annually to the Congress on the projects.

The provision is designed to test the effectiveness of outreach teams made up of case workers from State adult social services agencies, consultative medical examiners, disability examiners from the State Disability Determination Sections, and SSA claims representatives. The Secretary may waive the specific requirements for the makeup of the outreach team if a State proposal demonstrates that a different makeup would be as effective.

### **Section 9119: Increase in Personal Needs Allowance for SSI**

Increases the SSI payment rate for individuals in medical institutions where Medicaid pays at least half the cost of their care, for use in purchasing items used for personal needs, from \$25 to \$30 a month and requires States that supplement the personal needs allowance to pass through the increase. Effective July 1, 1988.

The personal needs allowance had remained at the \$25 level since the inception of the SSI program.

### **Section 9120: Exclusion of Death Benefits to the Extent Spent on Last Illness and Burial**

Excludes from the determination of unearned income any payments occasioned by the death of another person, including gifts and inheritances, to the extent that these payments are spent on the decedent's last illness and burial. (The prior exclusion was limited to life insurance proceeds (up to \$1,500) that are spent on the last illness and burial.) Effective April 1, 1988.

This change eliminates the inequity that occurred under prior law when an individual received more than \$1,500 and, because the amount that exceeded \$1,500 was considered unearned income, lost eligibility for SSI or had payments reduced, even if the entire amount had been spent on the decedent's last illness and death and none of the money received was used for the individual's own needs.

## **SSA-Related Medicare and Medicaid Provisions**

Various health care provisions of interest to the Social Security Administration affect the Medicare and Medicaid programs.

### **Section 4033: Permitting Disabled Individuals to Renew Entitlement to Medicare After Gainful Employment Without a 2-Year Waiting Period**

Provides that a person who becomes reentitled to Social Security disability insurance (DI) benefits on the basis of an impairment that is the same as or directly related to the impairment that was the basis for the previous entitlement does not have to serve another 24-month waiting period for Medicare benefits; months in the previous period of disability would count towards the 24 months. Under prior law, a beneficiary who became entitled to DI benefits more than 5 years (7 years for disabled widow(er)s and certain other beneficiaries) after his or her previous entitlement to DI benefits terminated had to serve another 24-month waiting period before Medicare coverage could begin. The provision is effective with respect to periods of disability ending after February 29, 1988.

This provision is intended to remove a possible obstacle to returning to work for disabled beneficiaries—the fear that Medicare coverage would not be quickly reinstated if the person again became entitled to Social Security DI benefits.

### **Section 4037: Medicare Hearings and Appeals**

Requires that the Secretary of Health and Human Services and the Comptroller General each conduct a study regarding holding Part A and Part B Medicare hearings by telephone and each report the study results to Congress by June 22, 1988 (6 months after enactment). These studies must focus on whether or not a telephone hearing provides a full and fair evidentiary hearing for any and all Medicare claims and examine possible improvements to the hearings process (for example, increased cost effectiveness, convenience to the claimant, and reduced hearings processing time) resulting from the use of telephone hearings versus adoption of other changes (such as expansion of staff and resources).

Requires that Social Security Administration administrative law judges conduct Part A and Part B Medicare hearings in the same manner that Social Security hearings are conducted until the earlier of the date on which the Secretary submits the required report or September 1, 1988.

### **Section 4082(b): Expedited Administrative Hearing Where Only Issues of Law Are Involved**

Provides that if a person who requests an administrative law judge (ALJ) hearing on a Medicare claim alleges that there are no material issues of fact in

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dispute, the ALJ must make an expedited determination as to whether or not that is so and, if it is, must determine the case expeditiously. The provision is effective with respect to requests for hearings filed after the 60-day period beginning on the date of enactment.

### **Section 4082(d): General Accounting Office Study**

Provides that the Comptroller General conduct a study concerning the cost effectiveness of requiring hearings with a carrier under Part B of title XVIII before having a hearing before an ALJ. The study results must be submitted to the Congress by June 30, 1988.

### **Section 4102: Home and Community-Based Services for the Elderly**

Provides that the Secretary of HHS shall grant waivers of certain Medicaid plan requirements in order to treat as reimbursable under Medicaid part or all of the cost of home or community-based services (other than room and board) provided to individuals aged 65 or older under a State plan. These services must be provided pursuant to a written plan of care, and it must be established that, but for these services, the individual would require the level of care provided by a hospital or skilled-nursing or intermediate-care facility. Effective January 1, 1988. The Secretary must develop and promulgate regulations not later than October 1, 1989.

As one of the requirements that may be waived, the statute specifically lists the requirement in Medicaid law that State plans use the same income and resource counting rules as are used in the SSI program. Waivers may be granted for 3 years and, at a State's request, be extended for an additional 5 years.

### **Section 4104: Optional Medicaid Coverage of Individuals in Certain States Receiving Only Optional State Supplementary Payments**

Provides that States not having agreements for Federal administration of their optional SSI supplementary payment programs or for Federal determinations of Medicaid eligibility may provide Medicaid coverage to individuals who receive only an optional State supplementary payment that is based on income counting rules that are more restrictive than those under the SSI program. Effective January 1, 1988.

The provision is applicable in States like Oklahoma, which administer their own optional supplementary payment plan and do not have the Social Security Administration make Medicaid determinations for persons eligible for SSI. Oklahoma does not apply an unearned income disregard (SSI disregards \$20) in determining eligibility for its optional supplement. Prior to this amendment, Medicaid rules required that States that opted to provide Medicaid to individuals receiving only a State supplement must follow SSI income counting rules.

### **Section 4118(c): Katie Beckett Technical**

Provides that, for purposes of the Medicaid plan option to cover in-home medical services for children aged 18 or younger (if the cost of doing so would be less than caring for the child in a hospital or skilled-nursing or intermediate-care facility) the child need only be eligible for Medicaid if he or she were in an institution rather than having to be eligible for an SSI or State supplementary payment if institutionalized. Effective retroactively to October 1, 1982.