

STORAGE NAME: h1817.cor

DATE: March 20, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CORRECTIONS
ANALYSIS**

BILL #: HM 1817

RELATING TO: Insurance Benefits/Medicare/Medicaid

SPONSOR(S): Representative(s) Crady and Andrews

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CORRECTIONS
 - (2) RULES AND CALENDAR
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

House Bill 1817 is a Memorial which requests that the Congress of the United States adopt legislation to end the practice of denying old-age and survivors insurance benefit payments (Social Security), Medicare and Medicaid benefit payments to prisoners and certain other individuals confined in publicly funded institutions.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

The Federal Government has prohibited incarcerated individuals who have paid federal employment taxes from receiving benefits to which they are otherwise entitled.

B. PRESENT SITUATION:

Social Security, Medicare and Medicaid:

The original intention of the Social Security Act, as signed into law by President Roosevelt in 1935, was to provide a "comprehensive package of protection" against the "hazards and vicissitudes of life."¹ The Act established two social insurance programs on a national scale to help meet the risks of old age and unemployment: a Federal system of old-age benefits for retired workers who had been employed in industry and commerce, and a Federal/State system of unemployment insurance.² Federal Insurance Contributions Act (FICA) taxes were collected from workers, beginning in 1937, and placed in the Social Security trust funds. From those funds, Social Security payments were distributed monthly, beginning in January 1940.

Presently, Social Security provides an income for eligible workers and their families when the worker retires, becomes severely disabled, or dies.³ According to the AARP web site, over 43 million Americans receive monthly Social Security benefits.⁴ These Old Age and Survivors Insurance and Disability Insurance payments are funded through the earnings of over 140 million currently employed workers.

The Social Security Act has been amended numerous times. In 1965 the Medicare and Medicaid programs were added to the Social Security Act. Medicare is a health insurance program for people over the age of 65, certain disabled people under the age of 65, and people of any age who have permanent kidney failure. It is the nation's largest health insurance program, which covers approximately 39 million Americans. Medicare is financed through Social Security taxes and participant monthly premiums. Medicare

¹Social Security Administration web page; <http://www.ssa.gov/history/history6.html>

²Social Security Administration web page; <http://www.ssa.gov/history/pdf/histdev.pdf>

³Department of Elder Affairs web page; http://fcn.state.fl.us/doea/handbook/financial_assistance.htm

⁴http://www.aarp.org/focus/ssecure/part_1/question_2.htm

coverage is uniform nationwide, with the exception of managed care contracts that exist in certain portions of the country. Medicare has two parts: Hospital Insurance (Part A) which provides coverage of inpatient hospital services, skilled nursing facilities, home health services, and hospice care; and Medical insurance (Part B) which helps pay for the cost of physician services, out-patient hospital services, medical equipment and supplies, and other health services.

Medicaid is a program designed to help pay some of the costs of health care for the poor. The program is jointly funded by the federal government, the state, and the counties. The federal government, through law and regulations, has established extensive requirements for eligibility.

Incarcerated Offenders:

The federal government in 1983 began to prohibit incarcerated individuals who have lawfully paid federal employment taxes from receiving monthly Old Age and Survivors Insurance benefits payments. The prohibition applies to any individual currently confined in a jail, prison, or other penal institution or correctional facility for a conviction of an offense punishable by imprisonment for more than 1 year, or who is confined by court order in an institution at public expense as a result of a finding of incompetency, insanity, or mental defect in connection with an offense punishable by imprisonment for more than 1 year.⁵ In addition to the prohibition against Social Security benefits being paid to these individuals, Medicare and Medicaid are not currently available to these individuals.

The denial of payment to these individuals has forced the Florida Department of Corrections to fund housing and medical costs from state revenue for these individuals who otherwise would be entitled to receive payment of entitled federal funds. The increasing number of elderly inmates is believed to be a substantially contributing factor to the rising cost of inmate health care.

The imposition of such a federal denial of payment and benefits force states to spend increasing portions of the state's budget on housing and medical treatment within correctional systems.

Subsistence Costs

Section 944.485, F.S., requires most inmates with sources of income and assets outside the correctional system (including Social Security) to pay from such assets, all or a fair portion of the prisoner's daily subsistence costs.

Medical Costs

A limited medical co-payment is currently charged by the department in certain instances. All other costs are borne directly by the department.

C. EFFECT OF PROPOSED CHANGES:

This memorial proposes the restoration of certain Social Security and Medicare/Medicaid entitlement to citizens and states; and it would enable the State of Florida to better fulfill its budgetary obligations.

⁵ 42 USCA 402, (x)(1)(A) 95317 Old-age and survivors insurance benefits payments.

STORAGE NAME: h1817.cor

DATE: March 20, 2000

PAGE 4

The primary effect of this memorial may be to reduce housing and health care costs within the state's correctional systems budget. Other state institutions may benefit as well. Examples would also include benefits for individuals in state mental hospitals and incarcerated juveniles receiving survivor benefits.

D. SECTION-BY-SECTION ANALYSIS:

None.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The Memorial itself has no effect on local government, but if Medicaid were extended to include inmates, the counties might be required to jointly fund some of the costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The denial of payment to these individuals forces the state of Florida and other states to fund housing and medical costs for these individuals who otherwise would be entitled to receive payment of federal funds for these expenses. If Medicaid and Medicare expenses were paid by the federal government, it is estimated that the state of Florida would receive approximately \$35 million annually. Medicaid requires a 45 percent state match, which is likely to produce a net savings for medical care of approximately \$25 million.

Old Age and Survivors Insurance would be payable to approximately 1200 inmates; additional disability benefits payments would be available to some individuals.

STORAGE NAME: h1817.cor

DATE: March 20, 2000

PAGE 5

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This memorial does not require counties or municipalities to expend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This memorial does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This memorial does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Additional research is necessary to determine the eligibility for Medicare and Medicaid benefits.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

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