

**STORAGE NAME:** h1817s1.cor

**DATE:** March 22, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
CORRECTIONS  
ANALYSIS**

**BILL #:** CS/HM 1817

**RELATING TO:** Insurance Benefits/Medicare/Medicaid

**SPONSOR(S):** Committee on Corrections and Representative(s) Crady and Andrews

**TIED BILL(S):**

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

- (1) CORRECTIONS YEAS 8 NAYS 0
  - (2) RULES AND CALENDAR
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

Committee Substitute for House Memorial 1817 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) and Medicaid entitlement benefits to prisoners and certain other individuals confined in publicly funded institutions, and also requests that Congress repeal current legislation which makes it burdensome and expensive for states for receive Medicare funding for the medical care of incarcerated individuals.

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."<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> According to the web site for the American Association of Retired Persons, over 43 million Americans receive monthly Social Security benefits.<sup>4</sup> 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

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

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

<sup>3</sup>Department of Elder Affairs web page; [http://fcn.state.fl.us/doea/handbook/financial\\_assistance.htm](http://fcn.state.fl.us/doea/handbook/financial_assistance.htm)

<sup>4</sup>[http://www.aarp.org/focus/ssecure/part\\_1/question\\_2.htm](http://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:**

In the early 1980s, the federal government 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.<sup>5</sup> In addition to the prohibition against Social Security benefits being paid to these individuals, incarcerated offenders are also prohibited from receiving Medicaid entitlement benefits.

Federal law does allow for states to receive Medicare funding for incarcerated individuals, but only if the state requires inmates to reimburse the state for all their medical costs while incarcerated, and only if the state actively pursues collection of all such reimbursements. The state of Florida currently does not meet these requirements.

The denial of payments and benefits 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 substantial contributing factor to the rising cost of inmate health care.

The imposition of such a federal denial of payments and benefits forces states to spend increasing portions of the states' budgets 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.

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

**C. EFFECT OF PROPOSED CHANGES:**

Committee Substitute for House Memorial 1817 proposes the restoration of certain Social Security and Medicare/Medicaid entitlements to citizens and states; and it would enable the State of Florida to better fulfill its budgetary obligations.

The primary effect of the Committee Substitute for House Memorial 1817 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.

Under the original version of the Memorial, Congress was requested to adopt language which would end the practice of denying Social Security, Medicare, and Medicaid payments to prisoners and other individuals housed in public institutions. The original version of the Memorial also directed Congress to provide the payment of such benefits directly to the institution responsible for housing the individual.

The Committee Substitute for House Memorial 1817 adds language which clarifies that inmates are requested to receive the benefits of Medicare and Medicaid funding, not actual payments from the programs. The Committee Substitute clarifies that Medicare funding for incarcerated individuals is not completely prohibited by the federal government, but that the process of receiving such funding is a burdensome one. The Committee Substitute changes the beneficiary of such payments and entitlements from the individual correctional institutions responsible for housing the offender to the state agency responsible for providing housing and medical care to the offender.

**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 Committee Substitute for the House 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 benefits to incarcerated 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.<sup>6</sup> Medicaid requires a 45 percent state match, which is likely to produce a net savings for medical care of approximately \$25 million.<sup>7</sup>

There are approximately 1,000 inmates in Florida's state correctional system who would be eligible for Old Age and Survivors Insurance payments<sup>8</sup>; additional disability benefit payments would be available to some individuals.

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

**A. APPLICABILITY OF THE MANDATES PROVISION:**

Committee Substitute for House Memorial 1817 does not require counties or municipalities to expend funds or take action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

Committee Substitute for House Memorial 1817 does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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<sup>6</sup>Fiscal amount provided by Criminal Justice Appropriations Committee.

<sup>7</sup>Fiscal amount provided by Criminal Justice Appropriations Committee.

<sup>8</sup>Number provided by staff of the Florida Department of Corrections.

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

Committee Substitute for House Memorial 1817 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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike-all amendment was offered by Representatives Crady and Andrews, and it was subsequently amended during the Corrections Committee meeting on March 22, 2000. The strike-all amendment, as amended, was unanimously adopted by the Corrections Committee on March 22. The strike-all amendment was subsequently incorporated into the Committee Substitute for House Memorial 1817, to which this analysis is written.

Amendment 1 to the strike-all amendment added language which clarified that the current federal requirements for states to obtain Medicare funding involve "burdensome documentation and collection procedures."

Amendment 2 to the strike-all amendment reinserted the word "Medicare" into the original strike-all amendment, and it also updated the title of the strike-all amendment to conform with the amendment changes.

Amendment 3 to the strike-all amendment added language requesting Congress to repeal the burdensome requirements for states to receive reimbursement for Medicare funds for incarcerated individuals.

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

Prepared by:

Staff Director:

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Melinda A. Smith

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Jo Ann Levin