THE WHITE HOUSE

WASHINGTON

Date 7/12

To: Gene Sperling
Bruce Reed
Chris Jennings

From: The Staff Secretary

I think this needs a cover note / summary from you before going to POTUS.

Please advise

done 7/12/97 AW

cc: Erskine

Chron

THE WHITE HOUSE

7/11

Phil
From Shalala -
Anne

info folder?

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JUL 11 1997

MEMORANDUM FOR THE PRESIDENT

As you know, the Senate has proposed a number of changes that would affect Medicare beneficiaries, including the introduction of an income-related Part B premium starting at $50,000 for single beneficiaries and $75,000 for couples. In our letter to the Conferees, the Administration made clear that while we do not oppose income-relating the Medicare premium in principle, we have a number of concerns about the proposal as currently structured. I wanted to raise to your attention the two aspects of the proposal that I think raise the most significant problems. (I have discussed my concerns with Secretary Rubin).

First, if the Administration agrees to an income-related premium, I believe we should strongly oppose the Senate provision for HHS to administer the collections process. The Administration has consistently taken the position that any such premium should be collected by the Treasury Department, where it could be managed simply and efficiently as part of the filing of a beneficiary's tax return. (As you may recall, this is how we proposed to collect the income-related premium in the Health Security Act; we adhered to this position in the balanced budget negotiations). Part I of this memorandum sets forth in more detail the reasons why administration of an income-related premium by HHS would be impractical, expensive, and more burdensome to beneficiaries. Administration by HHS runs serious risks of alienating several million senior citizens.

Second, I am concerned that the Senate proposal has the potential to cause a substantial percentage of the highest income beneficiaries to opt out of Medicare Part B altogether, because it phases out the premium subsidy entirely at the top end of the income scale. Part II of the memorandum explains why it is very important that we not agree to an income-related premium that includes this feature.

I. Concerns about Administrability of Income-Related Premium by HHS

Administration of an income-related premium by HHS would be a formidable undertaking. HHS does not now have access to information on beneficiary income. In addition to serious concerns about the privacy of income information, requiring HHS to collect an income-related premium would mean establishment of a large and expensive bureaucracy at HHS, a task for which the Department has no expertise or comparative advantage. We estimate that such a bureaucracy, which would duplicate functions performed by Treasury, would require more than 300 new

Federal employees and cost more than $30 million per year (not counting start-up costs), and run counter to Administration and Congressional goals of downsizing the Federal government.

Furthermore, the inefficiencies inherent in the Senate proposal for HHS to collect the income-related premium have led both CBO and HCFA actuaries to estimate that less than half of the revenue theoretically obtainable would be achieved. We believe that CBO would estimate that the income-related premium in the Senate bill would raise about $8-$9 billion over five years if the collections were handled by Treasury, compared to only the $4 billion that CBO has estimated if the premium were administered by HHS.

A. What HHS Would Have to Do to Administer Income-Related Premium

The Senate bill would require HHS to undertake a complicated series of steps.

(1) The Senate bill requires Treasury to provide HHS with income information on Medicare beneficiaries since HHS does not have such information. Collecting and reconciling information about beneficiary incomes would be an entirely new function for HHS, one that some beneficiaries may not find appropriate, given the sensitivity of such information.

(2) The income information provided by Treasury would be three years old. Treasury would send HHS 1995 tax return information, the latest available information, in order to give HHS sufficient time to develop and send to beneficiaries an initial determination (i.e., a preliminary estimate which would need to be reconciled after the actual tax filing for the year) of their 1998 income and an initial determination of their 1998 income-related premium liability, and give the beneficiary an opportunity refute the HHS estimate.

Use of income data three years old is problematic. It would be inherently confusing. Past income is not a good indicator of a Medicare beneficiary's future income. For example, income for beneficiaries who were working in 1995 but later retired would result in an overstatement of estimated 1998 income for the beneficiary. Similarly, if a beneficiary had a capital gain in 1995, that gain would be included in the beneficiary's 1995 income used to project 1998 income.

In contrast, if Treasury were administering the income-related premium, they would not have to use three year-old data. Rather, because the income-related premium would be collected as part of the filing of the beneficiary's tax return, it would be based on actual income information for the relevant year.

HHS would have to respond to the many letters from beneficiaries or Congressional Offices who might be concerned with the general notion of a governmental agency estimating their income for a year and why they had to supply income data to two different governmental agencies.

(3) The Senate bill requires that HHS send the beneficiary an estimate of their income by September 1 of the year before the year for which the income-related premium applied and that the beneficiary be given thirty days to refute the estimate. If the beneficiary refutes the HHS estimate, the Senate bill provides that the beneficiary's estimate would hold. If the beneficiary does not challenge the HHS estimate, the Senate bill specifies that the HHS estimate would hold.

(4) While the Senate bill does not specify how the income-related premiums would actually be collected, they could be collected either by HHS direct billing, or SSA deductions from the Social Security check (for the bulk of beneficiaries).

In the case of exclusive HHS direct billing, HHS would have to send quarterly bills to about 3 million beneficiaries in 1998. For those beneficiaries who did not make timely payment, additional efforts at collection would need to be undertaken.

Alternatively, the beneficiary-specific income-related premium liability could be sent to SSA before the beginning of a year and SSA could deduct the amount from the beneficiary's Social Security check. This method could be used for 85 percent of beneficiaries; the remainder would need to be direct-billed by HHS.

(5) If high-income beneficiaries did not make premium payments, they would be terminated from Medicare Part B coverage. Challenges to terminations could consume additional HHS resources. Termination may also involve correspondence with beneficiaries and Congressional offices.

(6) Since the initial premium payments for a year would be based on the "initial determination" of income and since "actual" income and the actual income-related premium liability for the year may be different from the estimated amounts, the Senate bill requires that there be a reconciliation after the year. The Senate bill requires Treasury to send HHS income information after the beneficiary filed their tax returns for the year. Using actual income, HHS would determine the actual premium liability for the year.

For income-related premium liabilities for 1998, the reconciliation would occur in 2001. This could be confusing to beneficiaries since the reconciliation would involve resurrecting their actual information from a tax return three years earlier and generate additional correspondence.

(7) After HHS reconciled estimated and actual income and income-related premium liabilities, underpayments would have to be collected from beneficiaries and overpayments would have to be refunded. If a beneficiary had died, collections would have to be made from, and refunds made to, the surviving spouse or estate. Special efforts may be needed to recoup underpayments from heirs where estates had already disbursed assets.

(8) The paperwork burden for HHS administration of an income-related premium is staggering. New forms would have to be developed to send income estimates to beneficiaries, receive their responses and reconcile estimated and actual income. Twelve million bills would need to be sent if HHS did exclusive billing for income-related premiums. Additional correspondence would be involved for delinquent collections. Up to 3 million letters might be sent to handle overpayments and underpayments for a year. Special paperwork might be needed to recoup underpayments from surviving spouses or estates.

B. Comparison with Administration by Treasury

In contrast, an income-related premium could be calculated through the income tax return, in a manner similar to the way that the tax on Social Security benefits is currently determined. One line would be added to the 1040 tax form representing the amount owed for income-related premium. Determination of the income-related premium owed would be calculated on a worksheet in the 1040 instructions in the same manner that individuals calculate the amount of their Social Security benefit subject to income taxation. If the individual pays estimated taxes, the income-related premium liability could be included as part of the individual's periodic filing. There would be some increase in Treasury's administrative costs to run this program, but we believe those costs are relatively small.

C. Potential Costs of Administration by HHS

In an era of ever more constrained funding for program administration, requiring HHS (and SSA) to take on these administrative functions would be impossible without a more than $30 million annual increase in administrative funding (and $20 million in start-up costs) and more than 300 new Federal employees. These estimates of administrative costs do not take into account the need to deal with inquiries or complaints from Congressional offices, or the IRS itself (which will continue to be identified as the source of final income data). In the absence of additional resources, processing those inquiries would detract from the capacity of those organizations to provide other services. Nor do those estimates reflect the additional costs to beneficiaries who believe -- rightly or wrongly -- that there are errors in the information on which their filings are based. Just as other taxpayers incur considerable expenses for accountants, lawyers, and so forth, so for the first time would thousands of Medicare beneficiaries.

II. Concerns about the Maximum Beneficiary Contribution in Senate Proposal

The Administration's Health Security Act proposed that beneficiaries pay a maximum contribution of 75 percent at or above the top income level. In other words, there would be a 25 percent subsidy for the highest income beneficiaries.

There is an important rationale for this policy. If the entire subsidy is removed, the younger and

healthier persons among highest income beneficiaries would have strong incentives to drop out of Part B coverage. On average, Medicare spending for high-income beneficiaries is about 15 percent lower than for all beneficiaries. Since their average expenses would be considerably less than their Part B premium contributions, they could probably purchase a Part B benefit package privately, at less cost than a Medicare premium equal to 100 percent of the average cost for all aged beneficiaries. If a significant number of high-income beneficiaries dropped out, it would raise costs for those who remain. HCFA actuaries assume that about 30 percent of high-income beneficiaries would drop out if the income-related premium were set equal to 100 percent of average program costs. This would increase the Part B premium for every other beneficiary. The Administration believes that the maximum beneficiary contribution at the highest incomes should be 75 percent.

Conclusion

For all of these reasons, I strongly believe we should support an income-related premium only if it is administered through Treasury. I also believe that if this provision remains in the bill, the maximum beneficiary contribution should be 75 percent.

Donna E. Shalala

cc: Robert Rubin
Secretary, Department of Treasury

John Callahan
Acting Commissioner, Social Security Administration

THE WHITE HOUSE

WASHINGTON

Date 7-12

To: John Podesta

From: The Staff Secretary

#491.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

JUL 11 1997

MEMORANDUM FOR TODD STERN

FROM: Sally Katzen

SUBJECT: Draft Letter to the Congressional Leadership on Encryption Legislation

As discussed with the Chief of Staff, we have prepared the attached draft letter for the President's signature. The letter provides support for using S. 909, the "Secure Public Networks Act," as the vehicle for reaching legislative agreement on encryption policy. S. 909 was introduced by Senators Kerrey, McCain, and Hollings, and has been reported by the Senate Commerce Committee.

The draft has been reviewed and agreed on by Justice (Litt), Commerce (Reinsch), NSA (Crowell), OVP (Gips), and NSC (Steinberg/Kerrick).

Attachment

cc: Franklin Raines
Don Gips

Letter to Senator Trent Lott, Senator Tom Daschle, Congressman Newt Gingrich, Congressman Richard Gephardt.

Dear

As you know, my Administration has been developing and implementing an encryption policy to serve multiple objectives. Those objectives are the growth of secure international electronic commerce, the preservation of individual privacy, the continued ability of U.S. companies to compete in global markets, and the protection of the public safety and national security. Our policy balances these objectives by endorsing a market-driven technology -- key recovery -- and by establishing a safe environment for electronic commerce using trusted key management infrastructures.

Agreement on national encryption policy is critical to the continued growth of electronic commerce. I believe that S. 909, the "Secure Public Networks Act," provides the best basis for involving industry, the law enforcement community, and other interested parties in creating the legal framework for securing electronic commerce on shared public networks. It contains many elements I support. In particular, I welcome the bill's explicit recognition of the need to balance competing objectives and of the potential for key recovery to become a market-driven mechanism to achieve that balance.

We need legislation this year to assure the trust and confidence necessary for electronic commerce in the United States to reach its full potential and to preserve our global leadership in information technology. I look forward to working with the Congress on S. 909 to arrive at a satisfactory consensus on this important challenge.

Sincerely,