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Potential Impact of No Social Security COLA on Medicare Part B Premiums in 2016

Updated November 16, 2015

Congressional Research Service
https://crsreports.congress.gov
R44224

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Medicare Part B covers physician services, outpatient care, durable medical equipment, laboratory services, and some home health services. Most beneficiaries pay a monthly Part B premium that is set at a rate to cover about 25% of the costs of Part B. The General Fund of the U.S. Treasury covers most of the remaining costs.

These monthly Medicare Part B premiums are automatically deducted from the checks of Social Security beneficiaries. Current projections indicate that there will be no Social Security cost-of-living adjustment (COLA) in 2016, which means that monthly Social Security benefit amounts will not be increased. However, total Medicare Part B program costs are expected to grow. Because Part B premiums must cover 25% of projected Part B costs, premiums are also expected to increase.

The Social Security Act (SSA) includes a provision that holds most Social Security beneficiaries harmless from increases in the Medicare Part B premium that exceed the dollar amount of the increase in their Social Security checks. Affected beneficiaries' Part B premiums are reduced to ensure that their Social Security checks do not decline from one year to the next. In a typical year, the hold-harmless provision affects a small fraction of beneficiaries and has a limited impact on program finances. However, in a scenario where Medicare Part B premiums increase but Social Security benefits do not, such as in 2010 and 2011, the effects of the hold-harmless provision are larger and more complex.

If there were to be no Social Security COLA in 2016, Medicare Part B premiums would be affected in two ways. For about 70% of Part B participants, the hold-harmless provision would prevent their Part B premiums from increasing, so their Social Security checks would remain the same. For the other 30% of beneficiaries, the hold-harmless provision would not apply. These individuals would shoulder the entire beneficiary share of the increase in Part B costs.

The hold-harmless provision does not apply to four main groups of beneficiaries (there may be some overlap among groups):

- Low-income beneficiaries whose Part B premiums are paid by the Medicaid program (about 19% of beneficiaries);
- High-income beneficiaries who are subject to income-related Part B premiums (about 6% of beneficiaries);
- Those whose Medicare premiums are not deducted from Social Security benefits (about 3% of beneficiaries); and
- New enrollees in 2016 (about 5% of beneficiaries).

Additionally, late-enrollment premium surcharges would be based on the premium amount of those not held harmless. Thus, those held harmless in 2016 who pay a late-enrollment penalty may still see reduced Social Security benefits as a result of the increased surcharges.

The substantial majority of those not held harmless are low-income beneficiaries whose Part B premiums are paid by the federal-state Medicaid program. As a result, most of the cost of the increase in Part B premiums in 2016 would be paid by Medicaid.

The statutory formula for determining the general revenue portion of Part B funding is based on aggregate beneficiary premiums. Therefore, unless Part B premiums are increased substantially on those who are not held harmless, the Supplementary Medical Insurance (SMI) trust fund, which finances Part B, would be at risk of exhaustion during the year.

On October 15, 2015, the Social Security Administration announced that there would be no Social Security COLA in 2016. Subsequent to that announcement, on November 2, 2015, the Bipartisan Budget Act of 2015 (BBA 2015; P.L. 114-74) was enacted. Section 601 of that act mitigates the expected sharp increases to Medicare Part B premiums for enrollees not held harmless and the deductibles for all enrollees in 2016. On November 10, 2015, the Centers for Medicare & Medicaid Services (CMS) issued the Part B premiums for 2016 using the determination methodology prescribed in the BBA 2015. As noted in this report, those enrollees held harmless will continue to pay the 2015 rate of $104.90 per month in 2016. Those not held harmless will pay monthly premiums of $121.80, and higher-income enrollees will pay $170.50, $243.60, $316.70, or $389.80, depending on their level of income.

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Introduction

Medicare is a federal insurance program that pays for covered health care services of most individuals aged 65 and older and certain disabled persons. In 2015, the program is expected to cover about 55 million persons (46 million aged and 9 million disabled) at a total cost of $649 billion. Most individuals (or their spouses) aged 65 and older who have worked in covered employment and paid Medicare payroll taxes for 40 quarters receive premium-free Medicare Part A (Hospital Insurance). Those entitled to Medicare Part A have the option of enrolling in Medicare Part B, which provides coverage for physicians' services, outpatient hospital services, durable medical equipment, outpatient dialysis, and other medical services. Most beneficiaries (about 92%) with Part A also enroll in Part B. Beneficiaries who choose to receive coverage through a Medicare Advantage (MA) plan (Part C) must enroll in both Medicare Part A and Medicare Part B. Part D provides optional outpatient prescription drug coverage.[1]

Whereas Part A is financed primarily by payroll taxes paid by current workers, Part B is financed through a combination of beneficiary premiums and funds transferred from the General Fund of the U.S. Treasury.[2] The Medicare Trustees estimate that in 2015, Part B spending will reach $281 billion. About $70 billion of that amount is expected to be paid for by beneficiary premiums, and most of the rest is expected to be paid from general revenues.[3]

In addition to premiums, Part B beneficiaries must pay other out-of-pocket costs when they use services. In 2015, the annual deductible for Part B services is $147. After the annual deductible is met, beneficiaries are responsible for coinsurance costs, which are generally 20% of Medicare-approved Part B expenses.[4] Most Medicare beneficiaries have some coverage in addition to Medicare that helps to pay for deductibles and coinsurance. This additional coverage can include coverage through Medicaid,[5] private insurance policies that supplement Medicare (Medigap),[6] or retiree coverage through a former employer.

By statute, Part B premiums, which are deducted automatically from Social Security checks for those who receive Social Security, must cover 25% of projected annual Part B per capita costs for aged beneficiaries. The Social Security Act (SSA) includes a provision that holds most Social Security and Railroad Retirement Board beneficiaries harmless for increases in their Medicare Part B premiums that exceed the dollar amount of the increase in their Social Security checks. Affected beneficiaries' Part B premiums are reduced to ensure that their Social Security benefit checks do not decline from one year to the next.

In a typical year, this *hold-harmless provision* affects a small fraction of beneficiaries and has a limited impact on program finances. However, in a year in which Medicare Part B premiums

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[1] For additional information on the Medicare program, see CRS Report R40425, *Medicare Primer*, coordinated by Patricia A. Davis and Scott R. Talaga.

[2] See CRS Report R43122, *Medicare Financial Status: In Brief*, by Patricia A. Davis.

[3] Boards of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, *2015 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplemental Medical Insurance Trust Funds*, July 22, 2015, Table III.C4, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2015.pdf. Hereinafter Medicare Trustees, *2015 Annual Report*.

[4] Deductibles and coinsurance paid by beneficiaries are not included in estimates of Medicare spending or income because those monies do not flow in and out of the Medicare program. Rather, these amounts are paid to health care providers as part of their reimbursement for covered services provided to beneficiaries.

[5] See CRS Report R43357, *Medicaid: An Overview*, coordinated by Alison Mitchell.

[6] See CRS Report R42745, *Medigap: A Primer*, by Carol Rapaport.

increase but Social Security benefits do not, the effects of the hold-harmless provision are larger and more complex.

This report provides an overview of Medicare Part B premiums, the relationship between the Social Security cost-of-living increase (COLA) and Part B premiums, and the potential impact of a projected 0% Social Security COLA in 2016 on Medicare premiums, based on recent projections by the Medicare Trustees.

On October 15, 2015, the Social Security Administration announced that there would be no Social Security COLA in 2016. Subsequent to that announcement, on November 2, 2015, the Bipartisan Budget Act of 2015 (BBA 2015; P.L. 114-74) was enacted. Section 601 of that act mitigates the expected sharp increases to Medicare Part B premiums for enrollees not held harmless and the deductibles for all enrollees in 2016. On November 10, 2015, the Centers for Medicare & Medicaid Services issued the Part B premiums for 2016 using the determination methodology prescribed in the BBA 2015. As noted in this report, those enrollees held harmless will continue to pay the 2015 rate of $104.90 per month in 2016. Those not held harmless will pay monthly premiums of $121.80, and higher-income enrollees will pay $170.50, $243.60, $316.70, or $389.80, depending on their level of income.

Medicare Part B Premiums

Most people who elect to participate in the Medicare Part B program pay the Part B premium.[7] The standard Part B premium is a single national amount that does not vary with a beneficiary's age, health status, or place of residence. Premiums may be adjusted, however, for late enrollment and for beneficiaries with high incomes. In 2015, the standard Medicare Part B premium is $104.90 per month.

Under normal circumstances, the standard premium is set to cover about 25% of the average per enrollee cost of Part B benefits. Therefore, changes in the Part B premium over time generally reflect the growth in total Part B expenditures.[8] Part B costs not covered by premiums are paid for through transfers from the General Fund of the Treasury. In other words, Medicare beneficiaries receive a 75% subsidy for Part B—every $1 in Part B premiums (for aged enrollees) is matched by $3 in general revenues. All income for Part B is credited to the Part B account of the Supplementary Medical Insurance (SMI) trust fund.

While both aged and disabled Medicare beneficiaries pay the same Part B premium, the statute provides that Part B premiums are to be based only on the expected program costs—that is, the monthly *actuarial rate*—for the aged (those 65 years of age and older).[9] (The actuarial rate for the aged is defined as one-half of the expected average monthly per capita program costs for the aged.) The monthly actuarial rates for both aged and disabled enrollees, however, are used to determine the needed amount of matching general revenue funding.[10]

[7] For further information, see CRS Report R40082, *Medicare: Part B Premiums*, by Patricia A. Davis.

[8] The exact relationship between Part B expenditures covered by the Part B premium has been changed by statute at various points. Most recently, the Balanced Budget Act of 1997 (BBA 97; P.L. 105-33) permanently set the standard Medicare Part B premiums to total 25% of estimated program costs for the aged. See CRS Report R40082, *Medicare: Part B Premiums*, by Patricia A. Davis.

[9] Social Security Act (SSA) §1839(a).

[10] The actuarial rate for the disabled is defined as one-half of the expected average monthly cost per disabled enrollee. Average per capita costs for the disabled are generally higher than those for the aged; therefore, were their average costs included in the premium determination, all Part B enrollees would pay higher premiums. As general revenue funding is determined using both the average costs of the aged and disabled, this funding is sufficient to compensate for the reduction in premiums due to not including the costs of the disabled in determining the premium amount.

Each year, the Centers for Medicare & Medicaid Services (CMS) actuaries estimate total per capita Part B costs for beneficiaries aged 65 and older for the following year and set the Part B premium to cover 25% of these expected expenditures. Because prospective estimates may differ from actual spending for the year, contingency margin adjustments are made to ensure sufficient income to accommodate potential variation in actual expenditures during the year. Once the premium has been set for a given year, it will not be changed during that year.

Calculation of the 2015 Premium

To determine the standard 2015 monthly Part B premium amount, CMS first estimated the monthly actuarial rate for enrollees aged 65 and older using actual per enrollee costs by type of service from program data through 2013 and projected costs for subsequent years. For 2015, CMS estimated that the monthly amount needed to cover one-half of the total benefit and administration costs for the aged would be $208.61. However, because of expected variations between projected and actual costs, a contingency adjustment of $3.41 was added to this amount. After a reduction of $2.22 to account for expected interest on trust fund assets, the monthly actuarial rate for the aged was determined to be $209.80. As premiums are based only on projections of expected costs of the aged, the 2015 Part B premium amount is one-half of $209.80, or $104.90 per month (25% of the monthly expected per capita costs of the aged).

The *contingency margin* is the amount set aside to cover variation between actual and projected costs.[11] In recent years, CMS has noted that Part B expenditures have been higher than expected under current law. In some cases, legislation that resulted in increased Medicare Part B expenditures for the year was enacted after the premium for the year had been set. For example, in calculating the premium for 2015, CMS recognized the possibility that Congress might override the scheduled physician payment reduction under the Sustainable Growth Rate formula of about 21.1% in physician fees beginning in April 2015 (thereby significantly increasing Part B expenses). As a result, CMS provided for the maintenance of a somewhat higher contingency margin than would otherwise be necessary in calculating the 2015 premium. Certain payments are excluded from the determination of the contingency margin,[12] and additional revenues from a fee paid by manufacturers and importers of brand-name drugs reduce the needed contingency margin. The 2015 contingency margin adjustment of $3.41 reflects the expected net effects of all of these factors.

Income-Related Part B Premiums

The Medicare Modernization Act of 2003 (MMA; P.L. 108-173) required that high-income enrollees in Medicare Part B pay higher premiums beginning in 2007.[13] In 2015, about 5.6% of Medicare beneficiaries pay these higher premiums.[14] For high-income beneficiaries, adjustments are made to the standard Part B premiums, with the share of expenditures paid by beneficiaries

[11] SSA §1839(a) requires that the Secretary include an "appropriate amount" for a contingency margin when calculating the monthly actuarial rate.

[12] Certain payment incentives to encourage the development and use of health information technology (HIT) by Medicare physicians are excluded from premium determinations. HIT bonuses or penalties are directly offset through transfers of general funds from the Treasury.

[13] The Medicare Modernization Act of 2003 (MMA; P.L. 108-173) would have phased in the increase over five years; however, the Deficit Reduction Act of 2005 (DRA; P.L. 109-171) shortened the phase-in period to three years.

[14] Calculation based on Social Security Administration, "2015 Social Security/SSI/Medicare Information," at http://www.ssa.gov/legislation/2015%20Fact%20Sheet.pdf.

increasing with income. This share ranges from 35% to 80% of the value of Part B coverage (as opposed to the standard 25%).[15] High-income adjustments to Part B premiums are referred to as the *income-related monthly adjustment amount* (IRMAA). In 2015, individuals whose incomes exceed $85,000 and couples whose incomes exceed $170,000 are subject to higher premium amounts. Depending on their level of income, beneficiaries may be classified into one of five income categories. (See **Table 1**.)

To determine who is subject to the high-income premium, the Social Security Administration uses an individual's most recent federal tax return, provided by the Internal Revenue Service. In general, the taxable year used in determining the premium is the second calendar year preceding the applicable year. For example, the 2014 tax return (with 2013 income) was used to determine who would pay the 2015 high-income premiums.[16] The income definition on which these premiums are based is modified adjusted gross income (MAGI).[17] If a person had a one-time increase in taxable income in a particular year, such as from the sale of property,[18] that increase would be considered in determining the individual's total income for that year and thus his or her liability for the income-related premium two years ahead. This one-time increase would not be considered in the calculations for future years.

Table 1. Monthly Medicare Part B Premiums for 2015

Levels of Premium Adjustment and Percentage of Costs Covered by Premiums	Beneficiaries Who File an Individual Tax Return with Income	Beneficiaries Who File a Joint Tax Return with Income	Income-Related Monthly Adjustment Amount (IRMAA)	Total Monthly Premium (standard premium + adjustment)
Standard (25%)	Less than or equal to $85,000	Less than or equal to $170,000	$0.00	$104.90
Level 1 (35%)	Greater than $85,000 and less than or equal to $107,000	Greater than $170,000 and less than or equal to $214,000	$42.00	$146.90
Level 2 (50%)	Greater than $107,000 and less than or equal to $160,000	Greater than $214,000 and less than or equal to $320,000	$104.90	$209.80
Level 3 (65%)	Greater than $160,000 and less than or equal to $214,000	Greater than $320,000 and less than or equal to $428,000	$167.80	$272.70
Level 4 (80%)	Greater than $214,000	Greater than $428,000	$230.80	$335.70

Source: Centers for Medicare & Medicaid Services (CMS), "Medicare Program: Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2015," 79 *Federal Register* 61314, October 10, 2014.

[15] Social Security Act (SSA) §1839(i).

[16] If an enrollee amended his or her tax return and the amendment changed the income used to determine the high-income adjustments, the updated information may be provided to the Social Security Administration so that the administration may correct or remove the income-related monthly adjustment amounts.

[17] Defined at SSA §1839(i)(4). See also Social Security Administration, *Program Operations Manual System*, "HI 01101.010: Modified Adjusted Gross Income (MAGI)," at https://secure.ssa.gov/poms.nsf/lnx/0601101010, and CRS Report R43861, *The Use of Modified Adjusted Gross Income (MAGI) in Federal Health Programs*, coordinated by Evelyne P. Baumrucker.

[18] H.R. 3590, the House version of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended), included a provision that would have excluded income from the gains attributable to the sale of a primary residence from the beneficiary's MAGI in determining the Part B income-related premium. This provision was not included in the final version of the ACA. See CRS Report R40898, *Medicare Program Changes in H.R. 3962, Affordable Health Care for America Act*, coordinated by Patricia A. Davis.

Note: The income thresholds above will remain the same through 2017.

In the case of certain major life-changing events that result in a significant reduction in MAGI, an individual may request to have the income determination made for a more recent year than the second preceding year.[19] These major events include death of a spouse; marriage; divorce; partial or full work stoppage for the individual or spouse; loss by the individual or spouse of income from income-producing property when the loss is not at the individual's direction (such as in the case of a natural disaster); or reduction or loss for the individual or spouse of pension income due to termination or reorganization of the pension plan.[20] Certain types of events, such as investment losses or events that affect expenses but not income, are not considered major life-changing events.[21]

Part B Premium Assistance for Low-Income Beneficiaries

Medicare beneficiaries who have limited income and assets may qualify for assistance with their Part B premiums from state Medicaid programs. About one in five Medicare beneficiaries is eligible to receive this assistance; these beneficiaries are commonly referred to as *dual-eligibles*.

Medicare beneficiaries who qualify for full Medicaid benefits (*full dual-eligibles*) have most of their health care expenses paid for by either Medicare or Medicaid. For these individuals, Medicaid covers the majority of Medicare premium and cost-sharing expenses. It also supplements Medicare by providing coverage for services not covered under Medicare, such as dental services and long-term services and supports.[22]

Beneficiaries who do not meet their respective state's eligibility criteria for Medicaid may still qualify for assistance with Part B premiums. Beneficiaries with incomes of less than 135% of the federal poverty level (FPL)[23] and assets of less than $7,280 for an individual or $10,930 for a couple in 2015[24] may qualify for assistance programs that are commonly referred to as Medicare Savings Programs (MSPs). (Beneficiaries enrolled in an MSP are referred to as *partial dual-eligibles.)* Three of these MSPs provide coverage of Part B premiums. Aged or disabled persons with incomes at or below FPL may qualify for the Qualified Medicare Beneficiaries (QMB) program. In 2015, the QMB monthly qualifying income levels are $1,001 for individuals and $1,348 for a couple.[25] Individuals whose income is more than 100% but less than 120% of FPL may qualify for assistance as a Specified Low-Income Medicare Beneficiary (SLMB). In 2015, the monthly income limits to qualify as an SLMB are $1,197 for an individual and $1,613 for a couple.

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[19] Social Security Administration, Form SSA-44, "Medicare Income-Related Monthly Adjustment Amount - Life-Changing Event," at http://www.socialsecurity.gov/forms/ssa-44.pdf.

[20] 20 C.F.R. §418.1205.

[21] 20 C.F.R. §418.1210.

[22] See CRS Report R43357, *Medicaid: An Overview*, coordinated by Alison Mitchell.

[23] The federal poverty levels (FPLs) for 2015 are $11,770 per year for an individual and $15,930 for a couple. (These levels are slightly higher in Alaska and Hawaii.) See U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *2015 Poverty Guidelines*, September 3, 2015, at http://aspe.hhs.gov/2015-poverty-guidelines.

[24] Income and asset requirements may vary by state and may change each year. These amounts do not include a burial fund allowance of $1,500 per person.

[25] The qualifying levels are slightly higher than the monthly FPL because, by law, $20 per month of unearned income is disregarded in the calculation. See Social Security Administration, *Program Operations Manual System*, "HI 00815.023: Medicare Savings Programs Income Limits," at https://secure.ssa.gov/poms.nsf/lnx/0600815023.

Additionally, individuals whose income is between 120% and 135% of FPL may qualify for assistance as Qualifying Individuals (QIs). In 2015, the monthly income limit for a QI is $1,345; for a couple, it is $1,813. Unlike the QMB and SLMB programs, which are paid for by Medicaid (joint federal-state spending),[26] expenditures under the QI program are 100% paid for by the federal government from the Medicare SMI trust fund up to a state's allocation level.[27] A state is required to cover only the number of people that would bring its annual spending on these population groups up to its allocation level; any expenditures beyond that level are voluntary and paid entirely by the state.

Late-Enrollment Premium Surcharge

Beneficiaries who do not sign up for Part B when first eligible, or who drop it and then sign up again later, may have to pay a late-enrollment penalty for as long as they are enrolled in Part B.[28] Monthly premiums for Part B may go up 10% for each full 12-month period that one could have had Part B but did not sign up for it. In 2014, about 1.4% of Part B enrollees (approximately 750,000 individuals) paid this penalty.[29] On average, their total premiums (standard premium plus penalty) were about 29% higher than they would have been had the enrollees not been subject to the penalty.

The surcharge is calculated as a percentage of the monthly standard premium amount (e.g., in 2015, $104.90), and that amount is added to the beneficiary's premium each month. For those subject to the high-income premium, the late enrollment surcharge applies only to the standard monthly premium amount and not to the higher income adjustment portion of their premiums. There is no upper limit on the amount of the surcharge that may apply. Each year, the surcharge is calculated using the standard premium amount for that particular year. Therefore, if premiums increase in a given year, the dollar value of the surcharge will increase as well.

Under certain conditions, select beneficiaries are exempt from the late-enrollment penalty. These exemptions include working individuals (and their spouses) with group coverage through their current employment, some military retirees, and some international volunteers. Those who receive premium assistance through an MSP do not pay the late-enrollment penalty.[30]

Payment of Premiums

Part B premiums may be paid in a variety of ways.[31] If an enrollee is receiving Social Security or Railroad Retirement benefits,[32] the Part B premiums must, by law, be deducted from these

[26] In general, Medicaid payments are normally shared between the federal government and the states according to matching formulas.

[27] For most recent allocations, see CMS, "Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals (QIs): Federal Fiscal Years 2013 and 2014," 80 *Federal Register* 31034, June 1, 2015, at http://www.gpo.gov/fdsys/pkg/FR-2015-06-01/pdf/2015-13043.pdf.

[28] For more information, see Medicare.gov "Part B Late Enrollment Penalty," at https://www.medicare.gov/your-medicare-costs/part-b-costs/penalty/part-b-late-enrollment-penalty.html.

[29] Figures provided to CRS by the Centers for Medicare & Medicaid Services (CMS), September 2015.

[30] The state pays the standard premium regardless of the date on which the beneficiary first became eligible for Medicare Part B. See Social Security Administration, *Program Operations Manual System*, "HI 00815.001: State Buy-In Program General Description," at https://secure.ssa.gov/apps10/poms.nsf/lnx/0600815001; and Ibid., "HI 00815.039: Effect of Buy-In on the Individual," at https://secure.ssa.gov/apps10/poms.nsf/lnx/0600815039.

[31] Ibid., "HI 01001.020: Collection of Premiums," at https://secure.ssa.gov/poms.nsf/lnx/0601001020.

[32] SSA §1840(a)(1) and §1840(b)(1). See CRS Report R42035, *Social Security Primer*, by Dawn Nuschler and CRS

benefits. Automatic deduction from the Social Security benefit check also applies to MA participants who are enrolled in private health care plans in lieu of traditional Medicare.[33] Additionally, Part B premiums are deducted from the benefits of those receiving a Federal Civil Service Retirement annuity.[34] The purpose of collecting premiums by deducting them from benefits is to keep premium collection costs at minimum.

This withholding from benefits does not apply to those beneficiaries receiving state public assistance through an MSP because their premiums are paid by their state Medicaid programs. Additionally, premium payments may be made on behalf of Medicare beneficiaries by an employee, union, lodge, or other organization, or by an entity of a state or local government if it enters into a group-billing arrangement with CMS. Those approved as group billers include such entities as city and county governments, state teacher retirement systems, and certain religious orders.

Any Part B enrollees whose premiums are not deducted from Social Security, Railroad Retirement, or Civil Service Retirement monthly benefits; paid by Medicaid; or paid under an approved group-billing arrangement by a private organization must pay premiums directly to CMS.[35] For example, certain persons who spent their careers in employment that was not covered by Social Security—including some federal,[36] state, or local government workers—and certain other categories of workers do not receive Social Security benefits but may still qualify for Medicare. Additionally, some individuals aged 65 and older may have deferred signing up for Social Security for various reasons, such as if they have not yet reached their full Social Security retirement age[37] or are still working. For these enrollees, Medicare will bill directly for their premiums every three months.[38] The enrollee who is being billed does not necessarily have to pay his or her own premiums; premiums may be paid by the enrollee, a relative, friend, organization, or anyone else.[39] Nonpayment of premiums results in termination of enrollment in the Part B program, although a grace period is allowed for beneficiaries who are billed and pay directly.[40]

Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*, by Scott D. Szymendera.

[33] Beneficiaries who receive their Parts A and B benefits through Medicare Advantage, must still pay the monthly Part B premium, but they may pay different amounts. For example, some MA plans may offer an additional benefit by reducing the amount one pays for the Part B premium.

[34] See CRS Report 98-810, *Federal Employees' Retirement System: Benefits and Financing*, by Katelin P. Isaacs.

[35] 42 C.F.R. §408.60.

[36] Generally, employees of the federal government hired before 1984 are covered by the Civil Service Retirement System (CSRS) and are not covered by Social Security. Most federal workers first hired into federal service on or after January 1984 participate in the Federal Employees' Retirement System (FERS), which includes Social Security coverage. However, the Tax Equity and Fiscal Responsibility Act (P.L. 97-248) enabled federal workers to be eligible for Medicare based on their federal employment. See CRS Report R42741, *Laws Affecting the Federal Employees Health Benefits (FEHB) Program*, by Kirstin B. Blom and Ada S. Cornell.

[37] See CRS Report R41962, *The Social Security Retirement Age: In Brief*, by Gary Sidor.

[38] Payment may be made by check, money order, or credit card; alternatively, one may schedule a payment to be automatically deducted from one's bank account. Premium billing form and information may be found at http://www.medicare.gov/forms-help-and-resources/mail-about-medicare/notice-of-medicare-premium-payment-due.html.

[39] Social Security Administration, *Program Operations Manual*, "HI 01001.225: When Premium Notices May Be Sent to an Individual Other Than an Enrollee," at https://secure.ssa.gov/apps10/poms.nsf/lnx/0601001225.

[40] This grace period may be extended for up to an additional three months if the enrollee can establish that nonpayment was due to circumstances beyond his or her control, such as being physically or mentally incapable of making premium payments or due to an administrative error. There is no financial hardship exemption, although those with sufficiently low income may qualify for premium assistance from a state Medicaid program.

Social Security COLAs

After a person becomes eligible to receive Social Security benefits,[41] his or her monthly benefit amount is adjusted annually to compensate for increases in the prices of goods and services over time.[42] During the last quarter of each year, the Social Security Administration announces the cost-of-living adjustment (COLA) payable in January of the following year. The amount of the COLA is based on inflation as measured by the Consumer Price Index—Urban Wage Earners and Clerical Workers (CPI-W). The CPI-W measures price changes in food, housing, gas, and other goods and services. The Social Security COLA reflects the percentage change in the average CPI-W from the third calendar quarter of the last year a COLA was determined to the third calendar quarter of the current year.

If the CPI-W rises, Social Security benefits for the next year increase proportionately. If the CPI-W falls, Social Security benefits stay the same—Social Security benefits do not decline if the CPI-W falls from one year to the next. Automatic COLAs began in 1975 (P.L. 92-336).[43]

Since the Social Security COLA was linked to the CPI-W in 1975, the lowest implemented COLA has been 1.3%, which occurred in both 1987 and 1999.[44] No COLA was implemented in 2010 or 2011. For 2012 through 2015, retirees received COLAs of 3.6%, 1.7%, 1.5%, and 1.7%, respectively.

However, the average CPI-W for July and August of 2015 is lower than that for the third quarter average in 2014. The Social Security Administration therefore expects that there will be no COLA in 2016.[45] The final numbers used to determine the Social Security COLA for 2016 (i.e., the CPI-W for September 2015) are expected to be released on October 15, 2015.[46]

Medicare Part B Premiums Expected to Increase in 2016

Because of projected Part B spending increases and the need to build up an adequate level of contingency reserves, the Medicare Trustees estimate that monthly beneficiary premiums, under normal circumstances, would need to increase from $104.90 in 2015 to about $120.70 in 2016, an increase of $15.80 per month. (However, as described below, under the hold-harmless provision, premiums for some beneficiaries may be lower than this amount, while premiums for other beneficiaries may be higher.)

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[41] For more information, see CRS Report 94-803, *Social Security: Cost-of-Living Adjustments*, by Gary Sidor.

[42] See CRS Report R42035, *Social Security Primer*, by Dawn Nuschler.

[43] Starting in 1975, COLAs have been applied annually, except when their effective date was switched from July to January in conjunction with a delay in COLA application from July 1982 to January 1984.

[44] The 1972 Social Security Amendments introduced the automatic COLA to Social Security payments. Initially, the provision provided for an automatic COLA only if the increase in the Consumer Price Index—Urban Wage Earners and Clerical Workers (CPI-W) was at least 3%. Although inflation regularly exceeded this level in the 1970s, inflation began to wane in the 1980s. In 1986, Congress enacted legislation (P.L. 99-509) to eliminate the 3% trigger, forestalling what would have been the first year with no COLA. For a history of Social Security COLA increases since 1975, see CRS Report 94-803, *Social Security: Cost-of-Living Adjustments*, by Gary Sidor.

[45] Social Security Online, "COLA Estimates," October 4, 2015, at http://www.ssa.gov/cgi-bin/bri.cgi.

[46] Bureau of Labor Statistics, "Consumer Price Index," at http://www.bls.gov/cpi/.

Specifically, the Medicare Trustees estimate that 2015 Part B expenditures will be higher than originally projected in 2014. Their 2015 report noted that "(l)egislation enacted at the end of 2014 and the beginning of 2015 raised Part B physician expenditures substantially compared to the law in effect in the fall of 2014 when the 2015 financing was established."[47] Higher-than-expected utilization of Part B services also contributed to this increase. While the Medicare Trustees estimate that the financing established for 2015 should be adequate to cover expected expenditures, they also note that the funding "would need to be increased in future years in order to restore the financial status of the Part B account to a satisfactory level."[48]

The higher-than-expected 2015 spending means that 1) future estimates will be calculated using a higher baseline number and 2) 2015 expenditures are expected to exceed income for that year. As a result, because premiums are based on 25% of expected per capita costs for the aged, 25% of expected spending for 2016 will be out of a higher expected number. Additionally, the Medicare Trustees are required to maintain an adequate reserve fund in the Part B account of the SMI trust fund to cover potential variations in projected and actual costs. The trustees consider a ratio of asset reserves to expected expenditures of between 15% and 20% to be adequate,[49] and they have aimed for reserves of 17% when determining Part B financing for the upcoming year.[50] Unexpected expenditures in 2015 are expected to draw down on this reserve. By the end of the year, reserves are projected to represent about 12% of expected 2016 costs. Financing for 2016 (premiums and general revenue) will need to be adjusted to build the reserves back up to 17% of expected costs. Premiums may be adjusted to cover financing shortfalls in a prior year, (i.e., if premiums were set too low in one year, the next year's premiums may be adjusted to make up for some of that shortfall to maintain an adequate reserve).

Future Part B spending is also expected to accelerate. Although Part B expenditure growth has slowed in recent years and premiums have remained level for the past three, the Medicare Trustees project faster benefit spending growth over the next five years (a 6.7% Part B average annual growth rate, compared with a 5.3% growth rate over the last five years). The CMS actuaries estimate that Medicare spending growth will increase due to "greater utilization of care, and higher payment rates driven by improved economic conditions which increase growth in the costs of input goods and services used to treat Medicare patients."[51]

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[47] Medicare Trustees, *2015 Annual Report*, p. 87, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2015.pdf. The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA; P.L. 114-10) changed the methodology used to update Medicare payments to physicians and made other Medicare payment adjustments. The Congressional Budget Office (CBO) estimated that MACRA changes related to physician payment rates would increase direct federal spending by about $175 billion over the period 2015 through 2025; this estimate includes increased spending in 2015 of $6.0 billion and in 2016 of $11.4 billion. See CBO, Cost Estimate and Supplemental Analyses for H.R. 2, *the Medicare Access and CHIP Reauthorization Act of 2015*, March 25, 2015, at https://www.cbo.gov/publication/50053 and CRS Report R43962, *The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA; P.L. 114-10)*, coordinated by Jim Hahn and Kirstin B. Blom.

[48] Medicare Trustees, *2015 Annual Report*, pp 96-97.

[49] Ibid, p. 94.

[50] CMS, "Medicare Program: Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2015," 79 *Federal Register* 61314, October 10, 2014, at http://www.gpo.gov/fdsys/pkg/FR-2014-10-10/pdf/2014-24248.pdf.

[51] Sean P. Keehan et al., "National Health Expenditure Projections, 2014-24: Spending Growth Faster than Recent Trends," *Health Affairs*, 34, no. 8 (July 28, 2015).

Protection of Social Security Benefits from Increases in Medicare Part B Premiums

When the annual Social Security COLA is not sufficient to cover the standard Medicare Part B premium increase, most beneficiaries are protected by the hold-harmless provision in the SSA.[52] Specifically, if in a given year the increase in the standard Part B premium would cause a beneficiary's Social Security check to be less, in dollar terms, than it was the year before, then the Part B premium is reduced to ensure that the amount of the individual's Social Security check does not decline.

The hold-harmless provision was originally created by the Deficit Reduction Act of 1984 (P.L. 98-369, §2302). It was extended by subsequent legislation and made permanent by the Catastrophic Coverage Act of 1988 (P.L. 100-360, §211(b)).[53] For most years prior to 1984, increases in the Part B premium were tied to increases in the Social Security COLA.[54] In the early 1980s, Congress regularly voted to set Part B premiums at a level to cover 25% of program costs, in effect overriding the COLA limitation. The 25% provisions first became effective in 1984. The hold-harmless provision was added that year to retain some limitation on the impact of increases in Part B premiums on Social Security benefits.

To be held harmless in a given year, a Social Security beneficiary must have received Social Security benefit checks in both December of the previous year and January of the current year. In addition, Part B premiums must have been deducted from both those Social Security benefit checks.[55] The hold-harmless provision operates by comparing the net dollar amounts of the two monthly benefit payments; if a beneficiary's Social Security benefit net of Medicare premiums for January of the current year is lower than it was in December of the previous year, then the hold-harmless provision applies to that person.[56] Premiums of those held harmless are then reduced to an amount that would not cause their Social Security benefits to decline in the next year. The premium paid by those held harmless is called the Variable Supplementary Medical Insurance premium.[57] Those not held harmless pay the standard premium as determined for that year.

Typically, the hold-harmless provision has affected a relatively small number of beneficiaries and has had minimal impact on Part B financing.[58] In most years, this rule primarily protects those

[52] SSA §1839(f). The hold-harmless provision was first implemented in January 1987.

[53] This provision was not repealed when the Catastrophic Coverage Act of 1988 (P.L. 100-360) was repealed in 1989.

[54] See CRS Report R40082, *Medicare: Part B Premiums*, by Patricia A. Davis.

[55] Note that Social Security benefit checks reflect benefit entitlements for the previous month, whereas Part B premiums are deducted in advance. For example, a November Social Security benefit check is not received until December but has December's Part B premium deducted from it.

[56] This determination is made by the Social Security Administration. Benefits are determined prior to reductions due to a government pension offset or a workers' compensation payment. 42 C.F.R. §408.20(e)(3)(i). Retroactive adjustments or payments and deductions on account of work are not to be taken into account in determining the monthly Social Security benefits. SSA §1839(f). See Social Security Administration, "Retirement Planner: How We Deduct Earnings from Benefits," at https://www.socialsecurity.gov/planners/retire/whileworking2.html.

[57] Social Security Administration, *Program Operations Manual*, "HI 01001.004: The Variable Supplementary Medical Insurance Premium," at https://secure.ssa.gov/poms.nsf/lnx/0601001004.

[58] For an example of the Social Security benefit thresholds of those who qualified to be held harmless in 2001 through 2010, see Figure 2 of archived CRS Report RL33364, *The Impact of Medicare Premiums on Social Security Beneficiaries*. For additional information, see Social Security Administration, *Variable Supplementary Medical Insurance Premiums*, Actuarial Note No. 147, by Jacqueline A. Walsh and Burt M. Kestenbaum, March 2006, at http://www.ssa.gov/OACT/NOTES/pdf_notes/note147.pdf.

with relatively low Social Security payments. (See **Table 2**.) However, in years in which there is no Social Security COLA, such as in 2010 and 2011, a large number of beneficiaries may be protected by this provision. (See "Application of the Hold-Harmless Provision in 2010 and 2011.")

Table 2. Application of the Hold-Harmless Provision Under Hypothetical Scenarios

Amount of Monthly Social Security Benefit in Current Year	Social Security COLA in the Next Year	Dollar Amount of Social Security Benefit Increase	Assuming a $16 Increase in the Medicare Premium in the Next Year	Net Social Security Benefit Increase or Decrease	Application of Hold-Harmless	Amount of Medicare Premium Increase in the Next Year for That Individual
$1,333	1.5%	$20.00	$16.00	$4.00	Not held harmless	$16.00
$650	1.5%	$9.75	$16.00	-$6.25	Held harmless for partial amount	$9.75
$350	1.5%	$5.25	$16.00	-$10.75	Held harmless for partial amount	$5.25
$1,333 (or any amount)	0%	$0	$16.00	-$16.00	Held harmless for entire increase	$0

Source: Congressional Research Service (CRS) analysis.

Note: COLA = Cost-of-living adjustment.

Some Beneficiaries Are Not Protected by the Hold-Harmless Provision

Not all beneficiaries are protected by the hold-harmless provision. For example, individuals who pay the high-income premiums are explicitly excluded from protection under this provision. They are required to pay the full amount of any increase in their Part B premiums.

Others are not protected by this provision because they do not meet the criteria of having their Medicare premium deducted from their Social Security check from one year to the next. This category includes the following:

- *Those whose Medicare premiums are paid by someone else.* Lower-income beneficiaries who receive premium assistance are not held harmless for premium increases because Medicaid pays premiums on their behalf; however, the Medicaid program generally pays the full amount of any increase in their Part B premiums. Individuals whose relatives, employer, or other organization make premium payments on their behalf also may not be held harmless.
- *Those who do not receive Social Security.* This group includes those who have not yet signed up for Social Security for various reasons, for example because they have not reached full retirement age[59] or are still working. It also includes disabled beneficiaries whose Social Security Disability Insurance (SSDI) cash benefits have been discontinued because they have returned to work but who are still eligible for

[59] See CRS Report R41962, *The Social Security Retirement Age: In Brief*, by Gary Sidor.

Medicare.[60] Additionally, those who receive benefits exclusively through a different retirement plan are not held harmless.[61] This category includes certain federal retirees under the Civil Service Retirement System[62] as well as certain state and local government workers—such as teachers, law-enforcement personnel, and firefighters—who have their own pension programs.[63]

- *Those who did not have Medicare premiums deducted from their Social Security checks at the end of one year and the beginning of the next*. This category includes those who first become eligible to enroll in Social Security or Medicare during the year the hold-harmless provision is in effect. It also includes those who had Medicare premiums paid on their behalf one year, for example by Medicaid, but lost that coverage during the next year. In addition, this group includes SSDI recipients who will not become eligible for Medicare until the hold-harmless year because of the 24-month waiting period.[64]

Some people protected by the hold-harmless provision may still see a decrease in their Social Security checks due to an increase in Medicare Part D premiums. Part D premiums are not covered by the hold-harmless provision, although beneficiaries with low-income subsidies would not be affected.[65]

Additionally, those who pay the late-enrollment penalty are not fully protected from the hold-harmless rule. The late-enrollment penalty is calculated from the standard premium established for that year. In a year in which the hold-harmless provision is in effect, the late-enrollment surcharges are calculated as a percentage of the premiums of those not held harmless. These surcharges are considered "nonstandard" premiums and thus are not limited by the hold-harmless provision.

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[60] See CRS Report R41934, *Ticket to Work and Self-Sufficiency Program: Overview and Current Issues*, by William R. Morton; Social Security Administration, The Redbook, pp. 31-33, at http://www.ssa.gov/redbook/documents/TheRedBook2015.pdf; and Social Security Administration, Disability Benefits For Wounded Warriors, pp. 13-14, at http://www.ssa.gov/pubs/EN-05-10030.pdf. Disabled military personnel may be required to enroll in Part B to maintain coverage under the Department of Defense health insurance, Tricare. Some persons with low incomes and limited resources may be eligible for state assistance with these costs under various Medicare Savings Programs.

[61] A person who is entitled to Social Security spousal benefits, based on a spouse's work record instead of his or her own work record, may or may not be covered by the hold-harmless provision. If the government pension offset (GPO) were to reduce spousal benefits to zero, then the individual would not meet the hold-harmless provision's requirement of having benefit checks for December of the previous year and January of the current year. Therefore, this person would not be held harmless. If the person were to receive a Social Security spousal benefit for a positive dollar amount, then he or she would be covered by the hold-harmless provision. For more on the GPO, see CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*, by Gary Sidor.

[62] Federal employees who exclusively worked under CSRS are not eligible for Social Security benefits based on their own work record. See CRS Report 98-810, *Federal Employees' Retirement System: Benefits and Financing*, by Katelin P. Isaacs. This program uses the same measuring period and formula for determining its COLAs as Social Security. See CRS Report 94-834, *Cost-of-Living Adjustments for Federal Civil Service Annuities*, by Katelin P. Isaacs.

[63] Social Security Administration, "How State and Local Government Employees Are Covered by Social Security and Medicare," at http://www.ssa.gov/pubs/EN-05-10051.pdf, and Social Security Administration, "State and Local Government Employers – Information," at http://www.ssa.gov/slge/.

[64] See CRS Report RS22195, *Social Security Disability Insurance (SSDI) and Medicare: The 24-Month Waiting Period for SSDI Beneficiaries Under Age 65*, by Scott D. Szymendera.

[65] However, CMS projects that, in general, Part D premiums will hold stable in 2016. CMS, "Medicare Prescription Drug Premiums Projected to Remain Stable," press release, July 29, 2015, at https://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2015-Press-releases-items/2015-07-29.html.

What Happens in the Absence of a Social Security COLA?

If there were to be a 0% Social Security COLA and an increase in Medicare Part B premiums in a given year, as in 2010 and 2011, the majority of Medicare beneficiaries would be protected by the hold-harmless provision. In this case, the premiums of those not held harmless would be higher than they would have been had the hold-harmless provision not been in effect because the Part B premium increase would be spread out among fewer enrollees.

Effect on Those Not Held Harmless

As previously described, the SSA requires the Secretary of Health and Human Services to adjust Part B premiums as necessary so that the *aggregate* amount of beneficiaries' contributions provides 25% of estimated Part B program costs for the aged.[66] General revenues, which cover most of the remaining program costs (about 75%), are required to be set at an amount based on the aggregate beneficiary premiums.[67] The lower Part B premiums under the hold-harmless provision also have the potential to cause lower general revenue transfers under the statutory matching formula. Therefore, the hold-harmless provision has the potential to reduce SMI trust fund income not only from premiums but also from general revenues unless beneficiaries are charged different premiums.

The law does not specify how premiums and general revenues should be established in years in which the hold-harmless provision applies to a large number of Medicare beneficiaries. Under current law, the only way to collect the 25% of Part B costs that are required to be covered by beneficiary premiums is to increase Part B premiums on beneficiaries who are not protected by the hold-harmless provision.[68] The beneficiaries who are not held harmless therefore shoulder the entire beneficiary share of the increase in Part B costs. In other words, their premium increase can be significantly greater than if there were no hold-harmless provision. As the Medicare Trustees pointed out in their 2010 annual report, "(t)his approach to preventing exhaustion of the Part B trust fund account is the only one available under current law," despite the "serious equity issues" this method raises.[69]

Application of the Hold-Harmless Provision in 2010 and 2011

Due to low inflation, no COLA adjustments were made to Social Security benefits in 2010 and 2011. However, Part B premiums increased, and the hold-harmless provision was broadly applied.

In those years, most Medicare beneficiaries (about 73%) were protected by the hold-harmless provision and continued to pay the 2009 standard monthly premium of $96.40 in both 2010 and 2011. Because Part B expenditures were still expected to increase—and beneficiary premiums are

[66] SSA §1839(a).

[67] SSA §1844.

[68] The law does not specify that this method be used, but it also does not prohibit it.

[69] Boards of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, *2010 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplemental Medical Insurance Trust Funds*, August 5, 2010, pp. 97-98, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/downloads/tr2010.pdf.

required to cover 25% of those costs—the premiums for those not held harmless (27% of beneficiaries) were higher than they would have been had the rest of the beneficiaries not been held harmless. The standard monthly premiums paid by those not held harmless were $110.50 in 2010 and $115.40 in 2011.[70] In 2011, of the 27% who were not eligible to be held harmless, about 3% were new enrollees, about 5% were high-income beneficiaries, about 17% had their premiums paid for by Medicaid, and the remaining 2% did not have their premiums withheld from Social Security benefit payments.[71] Premiums paid by enrollees in each of these years are shown in **Table 3**.

In calculating the actuarial rates in 2010 and 2011,[72] the amount of the lost premium income due to the application of the hold-harmless provision was included in the determination of the monthly actuarial rate for the aged (the rate used to determine both premiums and general revenue matching). Specifically, the percentage of expected per capita expenditures for those years was calculated first. Then, a higher contingency margin than normal was added to this amount to offset the lost premium income from those held harmless. (See "Calculation of the 2015 Premium" for a description of contingency margins.) In 2010 and 2011, the contingency margins were $34.32 and $41.22, respectively,[73] which were included in the actuarial rates of the aged—$221.00 in 2010 and $230.70 in 2011. Standard premiums were then calculated by determining one-half of the actuarial rate for the aged, which was $110.50 in 2010 and $115.40 in 2011. By comparison, the contingency margin in 2012, when the hold-harmless provision was no longer in effect, was $9.64,[74] the actuarial rate was $199.80, and the standard monthly premium was $99.90. If the actuarial rates had not been increased in 2010 and 2011 to account for the lost premium incomes, funding from premiums and general revenues would have been insufficient to cover expenditures in those years.

In 2012 and 2013, Social Security beneficiaries received a 3.6% and a 1.7% COLA, respectively, which more than covered the Part B premium increase in those years; therefore, the hold-harmless provision was not applicable for most beneficiaries. Similarly, in 2014 and 2015, with a Social Security COLA increase of 1.5% and 1.7%, respectively, and no increase in Part B premiums, the hold-harmless provision has not been applicable.[75]

[70] Most new enrollees in 2010 were eligible to be held harmless in the second year of no COLA (i.e., 2011); these individuals continued to pay the 2010 standard premium of $110.50 in 2011.

[71] CMS, "Medicare Program: Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2010," 74 *Federal Register* 54571, October 22, 2009, at http://www.gpo.gov/fdsys/pkg/FR-2009-10-22/pdf/E9-25370.pdf, and "Medicare Program: Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2011," 75 *Federal Register* 68790, November 9, 2010, at http://www.gpo.gov/fdsys/pkg/FR-2010-11-09/pdf/2010-28248.pdf.

[72] Ibid.

[73] These contingency margins were offset to a small degree by interest earnings of $3.16 in 2010 and $1.76 in 2011.

[74] This amount was offset by $2.64 in interest earnings.

[75] Social Security Administration, "Cost-of-Living Adjustment (COLA) Information for 2015," at http://www.socialsecurity.gov/cola/; and Social Security Administration Fact Sheet, "2015 Social Security Changes," at http://www.ssa.gov/news/press/factsheets/colafacts2015.html.

Table 3. Monthly Medicare Part B Premiums in Years 2009-2012

(with hold-harmless provision in effect in 2010 and 2011)

Levels of Premium Adjustment and Percentage of Costs Covered by Premiums	2009 Monthly Premiums	2010 Monthly Premiums for Those Not Held Harmless (those held harmless paid 2009 amounts)	2011 Monthly Premiums for Those Not Held Harmless (those held harmless paid 2009 or 2010[a] amounts)	2012 Monthly Premiums (hold-harmless provision not in effect)
Standard (25%)	$96.40	$110.50	$115.40	$99.90
Level 1 (35%)	134.90	154.70[b]	161.50[b]	139.90
Level 2 (50%)	192.70	221.00	230.70	199.80
Level 3 (65%)	250.50	287.30	299.90	259.70
Level 4 (80%)	308.30	353.60	369.10	319.70

Source: Boards of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, *2015 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplemental Medical Insurance Trust Funds*, July 22, 2015, Tables V.E2 and V.E3, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2015.pdf. (Hereinafter Medicare Trustees, *2015 Annual Report*.)

a. New enrollees in 2010 who were not held harmless in that year could have been held harmless in 2011 if they met the conditions. Those individuals would then have paid the 2010 premium ($110.50) in 2011.

b. Beneficiaries who paid the high-income premiums were not protected by the hold-harmless provision and paid the 2010 and 2011 rates (levels 1-4) shown in this table.

Potential Application of the Hold-Harmless Provision in 2016

Because of projected Part B spending increases and the need to build up an adequate level of contingency reserves,[76] the Medicare Trustees estimate that beneficiary premiums will need to increase to about $120.70 per month in 2016. But, as previously noted, the trustees also expect that there will be no Social Security COLA in 2016 and that the hold-harmless provision will apply to most beneficiaries. Because most beneficiaries would be held harmless in this situation and their premiums would remain at the 2015 amount ($104.90 per month), the premiums of the 30% of beneficiaries not held harmless would need to cover *all* of the expected increased costs so that 25% of Part B costs would still be covered by beneficiary premiums. In other words, if the hold-harmless provision were not in effect in 2016, everyone who pays the standard premium would pay about $120.70 per month; however, if it goes into effect, those not held harmless are expected to pay standard premiums of close to $160 per month ($159.30), while those who are held harmless would continue to pay $104.90 per month.

The Medicare Trustees estimate that, in 2017, the hold-harmless provision will no longer be in effect and the standard premium will decrease to about $120.70. (See **Figure A-1**.)

[76] As previously described, the Medicare Trustees try to maintain an adequate reserve fund (about 17% of expected costs for the year) in the SMI trust fund to cover potential variations in projected and actual costs. Unexpected expenditures in 2015 are expected to draw down on this reserve so that by the end of the year, reserves are projected to represent about 12% of expected 2016 costs. Financing for 2016 (premiums and general revenue) will need to be adjusted to build the reserves back up to 17% of expected costs.

Impact on Beneficiaries

Most Beneficiaries Would Be Held Harmless

About 70% of all Part B enrollees are expected to be held harmless for the increase in Part B premiums in 2016. Because a large proportion of the disabled qualify for premium assistance through Medicaid, a smaller percentage, about 55%, of the disabled would be held harmless compared to about 75% of the aged.[77] Those held harmless would continue to pay the same Part B premiums in 2016 as they did in 2015 ($104.90), and the amount of their Social Security checks would not change (assuming no other changes to their circumstances).

Some Beneficiaries Would Not Be Held Harmless

Not all beneficiaries would be protected by the hold-harmless provision. (See "Some Beneficiaries Are Not Protected by the Hold-Harmless Provision.") An estimated 30% of Part B enrollees would not be held harmless if there were no Social Security COLA in 2016. As previously noted, persons not eligible to be held harmless include higher-income beneficiaries who pay income-related Part B premiums, lower-income beneficiaries whose premiums are paid by Medicaid, new enrollees to either Medicare Part B or Social Security in 2016, and persons whose premiums are not deducted from Social Security benefits. The potential increases in premiums for those not held harmless in 2016 range from $54.40 per month ($652.80 annually) for those who pay the standard premium to $174.10 per month ($2,089.20 annually) for those who are at the highest income tier. (See **Table 4**.)

In 2016, about 6% of Part B enrollees are expected to be subject to income-related premiums and therefore would not be held harmless. (See **Table 5**.) Individuals paying the high-income premium could see premium increases of between $76.10 per month (for those in the lowest high-income tier) and $174.10 per month (for those in the highest income tier). High-income enrollees' total 2016 premiums could therefore range from $223.00 per month ($2,676 annually) to $509.80 per month ($6,117.60 annually). As each member of a couple whose income exceeds the high-income thresholds pays the high-income premium amount, high-income couples could see annual combined premiums of between $5,352 and $12,235.20 in 2016.

Table 4. Monthly Medicare Part B Premiums for 2015 and Projected 2016 Premiums

				If Hold-Harmless Rule Is Not in Effect in 2016	If Hold-Harmless Rule Is in Effect in 2016	
Levels of Premium Adjustment and Percentage of Costs Covered by Premiums	**Beneficiaries Who File an Individual Tax Return with Income**	**Beneficiaries Who File a Joint Tax Return with Income**	**2015 Monthly Premium (actual)**	**2016 Monthly Premium (estimate)**	**2016 Monthly Premium (estimate) for Those Held Harmless (about 70% of beneficiaries)**	**2016 Monthly Premium (estimate) for Those Not Held Harmless (about 30% of beneficiaries)**
Standard (25%)	Less than or equal to $85,000	Less than or equal to $170,000	$104.90	$120.70	$104.90	$159.30

[77] Estimates provided to CRS by CMS, September 2015.

Levels of Premium Adjustment and Percentage of Costs Covered by Premiums	Beneficiaries Who File an Individual Tax Return with Income	Beneficiaries Who File a Joint Tax Return with Income	2015 Monthly Premium (actual)	If Hold-Harmless Rule Is Not in Effect in 2016	If Hold-Harmless Rule Is in Effect in 2016	
				2016 Monthly Premium (estimate)	2016 Monthly Premium (estimate) for Those Held Harmless (about 70% of beneficiaries)	2016 Monthly Premium (estimate) for Those Not Held Harmless (about 30% of beneficiaries)
Level 1 (35%)	Greater than $85,000 and less than or equal to $107,000	Greater than $170,000 and less than or equal to $214,000	$146.90	$169.00	NA	$223.00
Level 2 (50%)	Greater than $107,000 and less than or equal to $160,000	Greater than $214,000 and less than or equal to $320,000	$209.80	$241.40	NA	$318.60
Level 3 (65%)	Greater than $160,000 and less than or equal to $214,000	Greater than $320,000 and less than or equal to $428,000	$272.70	$313.80	NA	$414.20
Level 4 (80%)	Greater than $214,000	Greater than $428,000	$335.70	$386.20	NA	$509.80

Sources: CMS, "Medicare Program: Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2015," 79 *Federal Register* 61314, October 10, 2014, at http://www.gpo.gov/fdsys/pkg/FR-2014-10-10/pdf/2014-24248.pdf; Medicare Trustees, *2015 Annual Report*, Tables V.E2 and V.E3; and CRS analysis.

Note: NA = not applicable.

Approximately 19% of Medicare Part B enrollees have their premiums paid by Medicaid and therefore would not be held harmless. Additionally, about 5% of Part B beneficiaries are expected to be receiving Medicare or Social Security for the first time in a given month during 2016 and would not be protected by the hold-harmless provision during that year.[78] Approximately 3% of beneficiaries (or someone paying on behalf of these beneficiaries) pay their premiums directly to CMS and therefore also would not be held harmless.

Table 5. Estimated Number of Beneficiaries Impacted by the Hold-Harmless Provision in 2016

	Number of Beneficiaries (in millions)	Percentage of Medicare Part B Enrollees
Protected by the Hold-Harmless Provision	36.7	70

[78] This category includes SSDI beneficiaries who are receiving SSDI benefits but are still in the 24-month waiting period for Medicare.

	Number of Beneficiaries (in millions)	Percentage of Medicare Part B Enrollees
Excluded from the Hold-Harmless Provision[a]	15.5	30
Dual Eligibles	10.0	19
High-Income Enrollees	3.1	6
Direct Remittance[b]	1.6	3
New Enrollees	2.6	5
Pay Late-Enrollment Penalties[c]	0.75	1.4

Source: Estimates provided to CRS by CMS, September 2015.

a. There is overlap among subcategories. For example, one can be both a new and a high-income enrollee. Therefore, the numbers and percentages in the subcategories add to more than the total number and percentage not held harmless.

b. Those whose premiums are not deducted from Social Security or Railroad Retirement benefits or not paid by Medicaid.

c. Late-enrollment penalty numbers are from 2014. More recent statistics were not available at the time of this report.

In addition, the late-enrollment penalty is determined as a percentage of the standard premium. Therefore, even if protected by the hold-harmless provision in regard to their standard premiums, those who pay the late-enrollment penalty could see a large increase in their penalty payments in 2016. For example, an individual with a 30% penalty currently pays an additional $31.50 per month on top of the standard premium of $104.90. In 2016, a 30% penalty could increase to close to $47.80. This amount would be in addition to whatever premium that person pays in 2016 ($104.90 for those held harmless and an estimated $159.30 for those not held harmless).

Impact on Medicare and Medicaid Financing

Medicare Part B (SMI) Trust Fund Impact

The Medicare Trustees estimate that the Part B trust fund account will require about $306.7 billion in income from premium collections and general revenue contributions in 2016 to cover expenditures and establish a sufficient contingency reserve.[79] As previously described, in the absence of a Social Security COLA, Part B premiums must be increased substantially on those who are not held harmless to prevent potential SMI trust fund exhaustion (see "Effect on Those Not Held Harmless," above). In their 2015 report, the Medicare Trustees state, "[u]nder current law, Part B premiums for other beneficiaries must be raised substantially to offset premiums foregone due to the hold-harmless provision, to prevent asset exhaustion, and to maintain a contingency reserve that accommodates normal financial variation."[80]

[79] This amount of estimated revenue would exceed estimated expenditures of $298.0 billion. This would increase asset reserves by about $8.7 billion, so that assets in the Part B account of the SMI trust fund at the end of the year would increase to $77.0 billion.

[80] Medicare Trustees, *2015 Annual Report*, p. 32, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2015.pdf.

Were Congress to enact legislation to reduce the premiums of those not held harmless in a given year, additional general revenues, or another source of funds, would be needed to ensure that the SMI trust fund had sufficient funds to cover Part B expenses during the year.

Medicaid Impact

Low-income beneficiaries who receive premium subsidies make up the substantial majority of those who are not held harmless. The federal-state Medicaid program pays the entire amount of these beneficiaries' Part B premiums, including any increase. As a result, Medicaid costs increase substantially in the absence of a Social Security COLA, with the burden falling on states as well as the Treasury (as a result of the federal match). One analysis suggests that Medicaid spending would increase by about $5.6 billion in 2016 and that the state share of this increase would be $2.3 billion.[81] By comparison, if all beneficiaries paid the same expected $120.70 per month premium, Medicaid spending would increase by approximately $1.6 billion, with the state share of this about $678 million.

Additionally, as the allocation for the (100% federally funded) Qualifying Individual program is limited each year, higher premiums could mean that fewer Medicare beneficiaries with incomes between 120% and 135% of FPL may qualify for premium assistance through this program. As of April 2015, the QI program covered the Part B premiums for about 500,000 beneficiaries.[82]

Expected Increase in Deductibles

Most services covered by Medicare Part B are subject to an annual deductible and coinsurance.[83] Prior to the MMA, the Part B deductible was set in statute. The MMA specified a $110 deductible in 2005 and required that each year afterward the annual increase in the deductible be increased with the increase in the Part B actuarial rate of the aged.[84] In this way, the growth in the deductible is tied to the growth in per capita Part B expenditures. (The actuarial rate of the aged is the same measure used to determine beneficiary premiums.)

In 2015, the Part B deductible is $147. However, due to the widespread application of the hold-harmless provision, the Medicare Trustees estimate that the actuarial rate will increase by close to 52% from 2015 to 2016. They therefore estimate that the annual Part B deductible will increase by about 52%, from the 2015 amount of $147 to $223 in 2016.[85] In 2017, the trustees estimate that the hold-harmless provision will no longer be in effect and that deductibles will decline to $169.

The increased deductible would affect most beneficiaries, including those held harmless from the premium increases. While some Medigap and retiree plans cover beneficiary deductibles, an

[81] Tomsic, Trinity, *Federal Funds Information for States*, "Medicare Part B Premiums for Dual Eligibles Projected to Increase 52% in CY 2016," Issue Brief 15-30, September 28, 2015. This analysis also provides a state-by-state breakdown of expected Part B premium cost related increases.

[82] Data provided to CRS by CMS, August 2015. In 2015, the Qualifying Individual program was allocated funding of about $1.1 billion. MACRA provides $980 million for the program for 2016.

[83] Some services are not subject to the deductible or coinsurance; these include clinical laboratory tests, home health agency services, and most preventive care services.

[84] SSA §1833(b).

[85] By comparison, when the hold-harmless provision was in effect in 2010 and 2011, deductibles were increased to $155 in 2010 from the 2009 amount of $135, and they increased again to $162 in 2011. In 2012, deductibles decreased to $140, and from 2013 through 2015 they have been held flat at $147 each year.

increase in the deductible amount also could affect the premiums that beneficiaries pay for this supplemental insurance.

Legislative Activity

The SSA does not specify how Medicare premiums are to be set in years in which there is an increase in Medicare Part B premiums but no Social Security COLA. Although the hold-harmless provision protects beneficiaries who receive Social Security benefits against increases in their Medicare premiums, aside from those paying the high-income premiums, the law is silent with respect to those who would not be held harmless under these circumstances. However, given that the SSA also requires that income from beneficiary premiums be set at 25% of expected per capita costs and that income to the SMI trust fund from general revenues be based on the aggregate dollar amount of beneficiary premiums, CMS has determined that substantially increasing the premiums on those not held harmless is the only way to make up for the revenue shortfalls caused by the hold-harmless provision. As the Medicare Trustees noted in their 2009 report, "(t)his method of addressing the revenue shortfalls caused by the hold-harmless provision is the only one available under current law. From a policy perspective, other approaches might be preferable but would require legislation to implement."[86]

The interaction between Social Security benefits and Medicare premiums is complex and raises a number of issues. These issues include the impact of having no Social Security COLA on seniors who are projected to face higher deductibles; the impact of the hold-harmless provision on the Part B premiums paid by beneficiaries who are not held harmless; and other concerns.

Numerous bills introduced in the 111th Congress would have addressed one or more of these issues by making changes to Social Security and/or Medicare.[87] Some of these bills were directly related to the hold-harmless provision in effect in 2010 and 2011, while others focused on year-to-year increases in Social Security benefits.

For example, a number of bills introduced in the 111th Congress would have provided a COLA for Social Security benefits in either 2010 or 2011. A positive COLA increase would have resulted in fewer beneficiaries being held harmless from Medicare Part B premium increases in those years. Several other bills would have provided one-time additional Social Security payments.[88] Most of those bills did not directly address the issue of Part B premiums but rather focused on payments to Social Security beneficiaries, veterans, and retired railroad workers.

More recently, in the 114th Congress, bills have been introduced that would create a new inflation index, a Consumer Price Index for the Elderly (CPI-E). This proposed index is intended to better reflect the prices of goods and services used by seniors, such as costs associated with housing and health care. H.R. 3351, the CPI-E Act, would index the Social Security COLA to this new measure.

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[86] Boards of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, *2009 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplemental Medical Insurance Trust Funds*, May 12, 2009, p. 25, footnote 10, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2009.pdf.

[87] A summary of these bills may be found in archived report CRS Report R40561, *Interactions Between the Social Security COLA and Medicare Part B Premiums*, by Jim Hahn.

[88] See archived CRS Report R41488, *One-time Payment in Lieu of a Social Security COLA*, by Sharmila Choudhury, Dawn Nuschler, and Scott D. Szymendera.

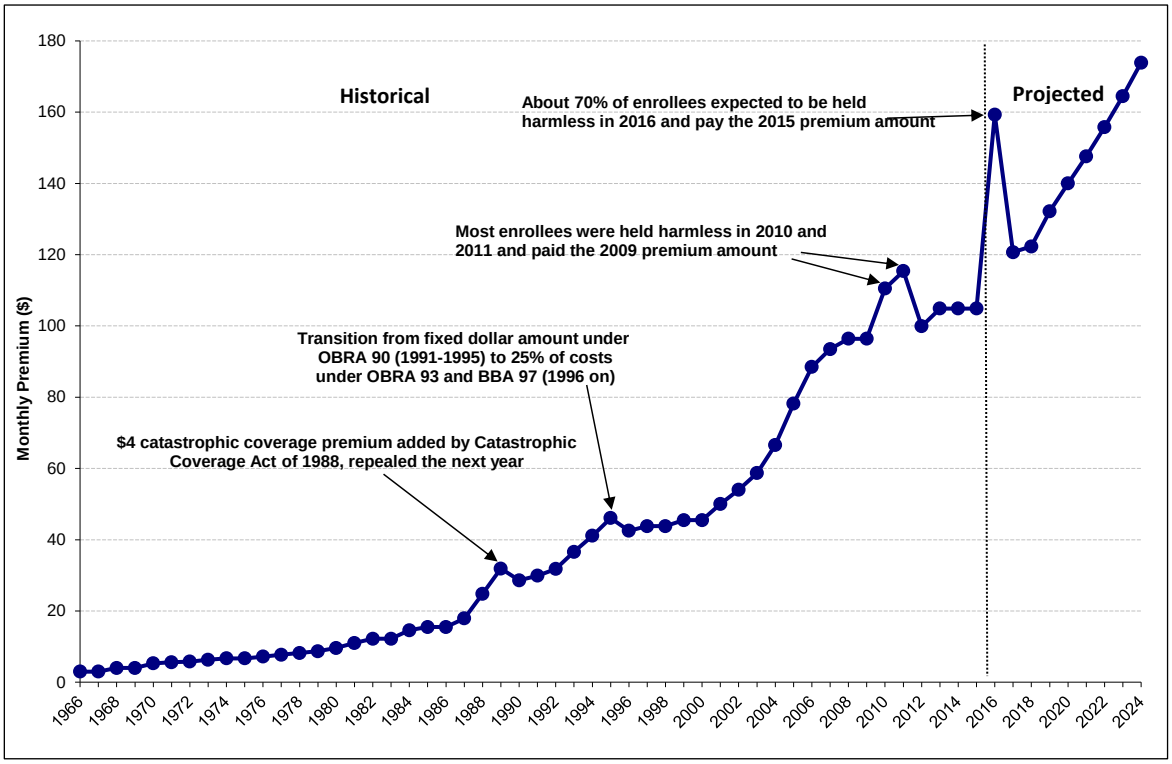
Several bills considered during the 111th Congress contained provisions to specifically address the impact of the hold-harmless provision on Medicare premiums as a result of having no COLA in Social Security benefits. For example, H.R. 3631, the Medicare Premium Fairness Act, would have frozen the 2010 monthly Medicare Part B premium at the 2009 level for all Part B enrollees.[89] Another bill, H.R. 1832, the Medicare Prescription Drug Affordability Act of 2009, would have, among other things, expanded the hold-harmless provision to premiums paid for Medicare Part D.

In addressing the potential application of the hold-harmless provision in 2016, the 114th Congress may consider reducing the expected premium levels for some or all of those not be protected by the hold-harmless provision and/or reducing the deductible. For example, S. 2148, the Protecting Medicare Beneficiaries Act of 2015, and H.R. 3696, the Medicare Premium Fairness Act, both introduced on October 7, 2015, would keep the 2016 Part B premiums at the 2015 level for all beneficiaries, including those with high incomes. Late-enrollment surcharges would also be based on the 2015 standard premium, and the deductible would remain at the 2015 rate. The loss of income from holding premiums flat in 2016 would be offset by increased general revenue contributions.

[89] H.R. 3631 was the only related bill that was voted on. It passed the House on September 24, 2009, by a vote of 406-18 but was not voted on by the Senate.

Appendix A. Medicare Part B Premium Trends

Figure A-1. Actual and Projected Medicare Part B Premium Growth



Sources: Congressional Research Service figure, based on Boards of Trustees, Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, *2015 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplemental Medical Insurance Trust Funds*, July 22, 2015, Tables V.E2, at https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2015.pdf.

Notes: Premium amounts in 2010, 2011, and 2016 (estimate) apply to those not held harmless.

OBRA 90 = Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508); OBRA 93 = Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66); BBA 97 = Balanced Budget Act of 1997 (P.L. 105-33).

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