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The Effect of No Social Security COLA on Medicare Part B Premiums

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Summary

The Social Security Administration announced on October 15, 2009, that there will be no Social Security cost-of-living adjustment (COLA) in 2010. Current projections indicate that there will be no COLA in 2011, either. Over the same period, total Medicare Part B program costs are expected to increase. Part B premiums, which are automatically deducted from Social Security checks, must cover 25% of projected Part B costs. The Social Security Act includes a provision that holds most Social Security beneficiaries harmless for increases in the Medicare Part B premium. 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, the effects of the hold harmless provision are larger and more complex.

The absence of a Social Security COLA affects Medicare Part B premiums in two ways under current law. For about three-quarters of Part B participants, the hold harmless provision would prevent their Part B premiums from increasing, and so the amount of their Social Security checks would remain flat, all other things being equal. Under current law, the only way to collect the 25% of Part B costs that are required to be covered by beneficiary premiums would be to increase Part B premiums on beneficiaries who are not protected by the hold harmless provision. The one-quarter of beneficiaries who are not held harmless would shoulder the entire beneficiary share of the increase in Part B costs. In other words, their collective premium increase could be nearly four times greater than if there were no hold harmless provision.

The one-quarter of Part B enrollees to whom the hold harmless provision would not apply can be divided into three groups:

- low-income beneficiaries whose Part B premiums are not withheld from their Social Security benefits but instead are fully paid by the Medicaid program (currently 17% to 18% of Part B enrollees, expected to increase),
- high-income beneficiaries who are subject to income-related Part B premiums (about 5% of Part B enrollees), and
- new enrollees (about 2% of Part B enrollees).

The substantial majority (17%) of those not held harmless are low-income beneficiaries whose Part B premiums are paid by Medicaid. As a result, in the absence of any intervention by Congress, most of the cost of the increase in Part B premiums in 2010 and 2011 would be paid by the federal-state Medicaid program, not directly by beneficiaries. Thus, about 5% of Part B enrollees—those enrollees who pay income-related premiums—will likely see higher Part B premiums and a corresponding decline in their Social Security benefits compared with the previous year. An additional 2% (the new enrollees who voluntarily elect Part B) will pay premiums that are higher than they would be but for this unusual situation.

In the absence of a Social Security COLA, the Supplementary Medical Insurance trust fund, which finances Part B, is at increased risk of exhaustion unless Part B premiums are raised substantially on those who are not held harmless or Congress takes other action.

Contents

Background 1
Medicare Part B Premiums 1
Standard Part B Premium 1
Income-Related Part B Premiums 2
Part B Premium Subsidies for Low-Income Beneficiaries 2
Social Security COLAs 2
Interaction Between Medicare Premiums and Social Security Benefits 3
Deduction of Part B Premiums from Social Security Checks 3
Hold Harmless Provision for Increases in Part B Premiums 3
What Will Happen in 2010 in the Absence of a Social Security COLA? 4
Impact on Beneficiaries 5
Most Beneficiaries Will Be Held Harmless 5
Some Beneficiaries Will Not Be Held Harmless 5
The Entire Increase in Part B Premiums Will Be Borne by Those Not Held Harmless 5
Impact on Medicare/Medicaid Financing and the Federal Budget 6
Medicare Part B (SMI) Trust Fund Impact 6
Medicaid Impact 6
Recent Legislative Activity 7
Changes to Medicare 7
Changes to Social Security 7

Contacts

Author Contact Information 9
Acknowledgments 9

Background

This section outlines how Medicare Part B premiums and Social Security cost-of-living adjustments (COLAs) are calculated, and how the COLA affects Part B premiums. The following section examines a scenario in which Medicare Part B premiums rise but Social Security benefits do not.

Medicare Part B Premiums[1]

Medicare beneficiaries who voluntarily elect Part B coverage, which covers services provided by physicians as well as a variety of other health care services, are charged a monthly premium. Social Security beneficiaries, as well as railroad retirees and civil service annuitants, have their Part B premiums deducted from their monthly checks, when possible.

Standard Part B Premium

Medicare Part B premiums typically rise or fall with Part B program costs. The Balanced Budget Act of 1997 (BBA 97, P.L. 105-33) permanently set the standard Medicare Part B premium at 25% of estimated program costs for the aged.[2] Federal general revenues account for the remaining Part B program costs. In other words, Medicare beneficiaries receive a 75% subsidy for Part B, with every $1 in Part B premiums (for aged enrollees) matched by $3 in general revenues. In 2009, the standard Medicare Part B premium is $96.40 per month. All income for Part B is credited to the Supplementary Medical Insurance (SMI) trust fund.

Part B Premium Formula Includes Cuts to Physician Payments

Medicare physician payments, which account for about half of Part B costs, are updated from year to year according to a statutory formula, commonly referred to as the sustainable growth rate (SGR). Strict application of this formula would result in cuts to physician fees of about 21% in 2010, and then about 5% in each of the following four years.[3] However, these cuts are seen as unlikely to be implemented. Congressional action has overridden the SGR system and prevented cuts to physician fees for 2003 to 2009. Many Members of Congress were concerned about the impact of potential payment reductions on beneficiaries' access to services. The Medicare trustees acknowledge that "multiple years of significant reductions in physician payments per service are very unlikely to occur before legislative changes intervene."[4]

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[1] CRS Report R40082, *Medicare: Part B Premiums*, by Jim Hahn.

[2] Disabled Medicare beneficiaries under age 65 pay the same premium amount as those aged 65 or older, though their per capita Part B costs are higher.

[3] Congressional Budget Office letter to Energy and Commerce Chairman Dingell, June 24, 2008.

[4] Centers for Medicare and Medicaid Services, *2008 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds*, March 25, 2008, p. 23, at http://www.cms.hhs.gov/ReportsTrustFunds/downloads/tr2008.pdf. (Hereinafter referred to as "2008 Medicare Trustees Report.")

Income-Related Part B Premiums

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA, P.L. 108-173) increased the percentage share of Part B costs for high-income enrollees beginning in 2007.[5] The Part B premiums for high-income Part B enrollees are based on a greater beneficiary share of total expenditures (and a correspondingly reduced subsidy) that increases with income. For 2009 and future years, higher-income individuals pay total premiums ranging from 35% to 80% of the projected per capita Part B expenditures. In 2009, the four income-related Medicare Part B premium categories range from $134.90 to $308.30 per month, on a graduated scale for individuals whose incomes exceed $85,000 per year and for couples whose incomes exceed $170,000 per year.[6]

Part B Premium Subsidies for Low-Income Beneficiaries

Low-income individuals may qualify for subsidies, which cover all or part of their Part B premiums. About one in five Medicare beneficiaries receive full Part B subsidies. These subsidies are paid by the federal-state Medicaid program. To qualify for subsidies, beneficiaries must have limited income and assets. Beneficiaries may qualify for full Part B premium subsidies if they have incomes of less than 135% of the federal poverty line and assets of less than $4,000 for an individual or $6,000 for a couple.[7]

Social Security COLAs

After a person becomes entitled to receive Social Security benefits, his or her monthly benefit amount is increased annually to maintain purchasing power over time. During the last quarter of each year, the Social Security Administration (SSA) announces the COLA payable in January of the following year.[8] The amount of the COLA is based on inflation as measured by the Consumer Price Index—Urban Wage Earners and Clerical Workers (CPI-W).[9] The Social Security COLA reflects the percentage change in the average CPI-W for the third calendar quarter of the previous year 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).[10]

Since the Social Security COLA was linked to the CPI in 1975, the lowest implemented COLA was 1.3% in 1987 and 1999.[11] In 2008 the CPI-W rose sharply through September, triggering a

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[5] The income-related subsidy provision was later modified by the Deficit Reduction Act of 2005 (DRA, P.L. 109-171).

[6] See Figure 2, Percentage of Costs Paid by Beneficiaries with Income-Related Premiums, 2006-2009 in CRS Report R40082, *Medicare: Part B Premiums*, by Jim Hahn.

[7] The federal poverty line varies depending on family size. For a family of two, the poverty guideline for the purposes of determining Medicaid eligibility is $14,570 in 2009. (See *The 2009 HHS Poverty Guidelines* at http://aspe.hhs.gov/POVERTY/09poverty.shtml.)

[8] The 2010 COLA became known on October 15, 2009, when the Bureau of Labor Statistics announced the September 2009 CPI-W.

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

[10] Starting in 1975, COLAs have been applied annually, with the exception being when their effective date was switched from July to January and there was no COLA applied in the months between July 1982 and January 1984.

COLA of 5.8% that became payable starting in January 2009. The CPI-W subsequently fell during the last quarter of 2008, largely reflecting the decline in energy prices from their historical highs earlier in 2008. Moderate inflation resumed in 2009, but this was not enough to offset price declines in late 2008. CBO projects that the next Social Security COLA will occur with Social Security benefit payments starting in January 2012.[12]

Interaction Between Medicare Premiums and Social Security Benefits[13]

Deduction of Part B Premiums from Social Security Checks

Ultimately, everyone who is eligible for Social Security retirement or disability benefits qualifies for Medicare. Most people who elect to participate in the Part B program pay the Medicare Part B premium.[14] By law, the Medicare Part B premium is automatically deducted from the Social Security benefits of those enrolled in Part B (including Medicare Advantage participants, who are enrolled in private health-care plans in lieu of traditional Medicare).[15]

About 63% of Social Security beneficiaries (32 million persons) have Medicare Part B premiums deducted from their benefit checks.[16] Social Security beneficiaries who do not pay Medicare Part B premiums include those who are under the age of 65, receive low-income assistance from Medicaid to pay the Part B premium, have started to receive Social Security disability insurance (SSDI) but have not received SSDI for 24 months, or chose not to enroll in Medicare Part B.

Hold Harmless Provision for Increases in Part B Premiums

A hold harmless provision reduces the Part B premium for most beneficiaries whose Social Security COLAs are not sufficient to cover the standard Part B premium increase.[17] If, in a given year, the increase in the standard Part B premium would cause a beneficiary's Social Security check to be less than it was the year before, the premium is reduced to ensure that the amount of the individual's Social Security check does not decline. Whether a beneficiary is held harmless depends on the amount of the standard Part B premium increase relative to the amount of his or

(...continued)

[11] The 1972 Social Security Amendments introduced the COLA to Social Security payments. Initially, the provision provided for an automatic COLA only if the increase in the 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.

[12] Specifically, the next COLA will be triggered when the CPI-W for the third quarter of a future year exceeds its average of 215.5 in the third quarter of 2008. The CPI-W averaged 211.0 during the third quarter of 2009.

[13] For more information, see CRS Report RL33364, *The Impact of Medicare Premiums on Social Security Beneficiaries*, by Alison M. Shelton.

[14] Some beneficiaries do not pay Medicare premiums, either because they receive low-income assistance or because they choose not to enroll in Medicare Part B.

[15] Section 1840(a)(1) of the Social Security Act (42 U.S.C. §1395r). Part B premiums are also deducted from Railroad Retirement benefits (Social Security Act §1840(b)(1)).

[16] Figures provided to CRS by the Social Security Administration, August 20, 2009.

[17] Section 1839(f) of the Social Security Act (42 U.S.C. §1395r). The hold harmless provision was first implemented in January 1987.

her Social Security COLA in a given year and whether the beneficiary has a previous history of paying Part B premiums. The number of people held harmless has varied in recent years.[18] Typically, the hold harmless provision has affected a relatively small number of beneficiaries and has had minimal impact on Part B financing.

The following groups are not affected by the hold harmless provision.

- **Lower-Income Beneficiaries:** Lower-income beneficiaries who receive premium subsidies are not held harmless for premium increases; however, the Medicaid program pays the full amount of any increase in their Part B premiums. Currently, about 17% to 18% of Part B enrollees receive full Part B subsidies, but this number is expected to increase because of the economic downturn.[19]
- **Higher-Income Beneficiaries:** Higher-income beneficiaries who are required to pay income-related Part B premiums are not held harmless for premium increases. They are required to pay the full amount of any increase in their Part B premiums. About 5% of Part B enrollees are subject to income-related premiums.[20]
- **New Beneficiaries:** Beneficiaries who are receiving Social Security or Medicare or both for the first time are not affected by the hold harmless provision.[21] They would pay the full amount of their Part B premiums during their first year in which they receive both Social Security and Part B benefits, after which they would be subject to the hold harmless provision. Roughly 2% of Part B enrollees were new to the rolls in 2007.[22]

What Will Happen in 2010 in the Absence of a Social Security COLA?

Since 1975, when the automatic Social Security COLA was established, a COLA has been paid every year. However, SSA announced on October 15, 2009, that there will be no Social Security COLA in 2010. Furthermore, both SSA and CBO project that there will be no COLA in 2011.[23] The Centers for Medicare and Medicaid Services (CMS) actuaries, using the assumptions in the FY2010 President's Budget documents released in February 2009, concur, saying that COLAs in 2011 and 2012 are unlikely.[24]

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[18] For more 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.

[19] CMS Actuary Letter, 4/8/09.

[20] Ibid.

[21] To be held harmless in a given year, a Social Security beneficiary must have had Part B premiums deducted from both the December check of the prior year and the January check of the current year.

[22] 2008 Medicare Trustees Report.

[23] CBO, *The Budget and Economic Outlook: An Update,* August 2009, and CBO communication to CRS staff dated September 3, 2009.

[24] Letter from Rick Foster, chief actuary, CMS, to Jim Hahn, analyst in Health Care Financing, CRS, April 8, 2009. (Hereinafter referred to as "CMS Actuary Letter, 4/8/09.")

Impact on Beneficiaries

Most Beneficiaries Will Be Held Harmless

If Part B premiums increase but Social Security benefits do not, about three-quarters of Part B enrollees will be held harmless for the increase in Part B premiums.[25] Thus, they would continue to pay the same Part B premiums as they did in 2009, and the amount of their Social Security checks would not change (assuming no other changes to their circumstances).

Some Beneficiaries Will Not Be Held Harmless

Not all beneficiaries will be affected by the hold harmless provision, however. As described above, about one-quarter of Part B enrollees will not be held harmless under current law.[26] Persons who would not be held harmless include lower-income beneficiaries whose premiums are paid by Medicaid, higher-income beneficiaries who pay income-related Part B premiums, and new enrollees.

The Entire Increase in Part B Premiums Will Be Borne by Those Not Held Harmless

Because every $1 of Part B premiums collected is matched with $3 in federal general revenues, the hold harmless provision could reduce SMI trust fund income not only from premiums but also from general revenues. The Social Security Act provides the Secretary of Health and Human Services with the legal authority 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.[27] According to the CMS actuary, "under current law, the only way to offset the lost revenue would be to increase the Part B premiums for these years substantially above normal requirements."[28]

Because three-quarters of Part B enrollees will be held harmless, the entire increase in beneficiary costs would be borne by the remaining one-quarter. In other words, premiums for beneficiaries not held harmless would increase nearly four times in aggregate as much as they would have if there were no hold harmless provision.[29]

Using assumptions from the FY2010 President's Budget, which predicted no Social Security COLA during the three years from 2010 to 2012, the CMS actuaries project that enrollees who are not held harmless would see their monthly Part B premiums increased by $8 in 2010, by $16 in 2011, and by $50 in 2012.[30] They estimate that premiums would *decline* in 2013, the next year

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[25] CMS Actuary Letter, 4/8/09.

[26] Ibid.

[27] Sec. 1839(a) of the Social Security Act (42 U.S.C. §1395r).

[28] CMS Actuary Letter, 4/8/09.

[29] Douglas Elmendorf, *Director's Blog*, Congressional Budget Office, "Effect of a Zero Social Security COLA on Part B Premiums in Medicare," April 23, 2009, http://cboblog.cbo.gov/?p=236. (Hereinafter cited as 4/23/09 CBO Director's blog post.)

[30] CBO also projects increases in Part B premiums. CBO projects that the standard Part B premium for beneficiaries not held harmless would be $119 per month in 2010 and $123 in 2011. (4/23/09 CBO Director's blog post.)

in which CMS projects that Social Security beneficiaries would receive a COLA. The reason for the projected decline is that a much smaller group of beneficiaries would be held harmless and so the premium increases could be spread among a substantially larger group. For 2013, the CMS actuaries project that the standard Part B premium would be $119 per month (for beneficiaries who had been held harmless since 2009, this would represent an increase of more than $22 from the 2009 monthly premium of $96.40), again based on the assumptions in the President's Budget. However, a revised CMS analysis that incorporates actual data from later periods might produce a result consistent with the CBO projections. This increase would likely absorb most or all of any COLA in 2013, thus keeping most Social Security checks flat for another year. CBO projects similar increases in Part B premiums. These estimates are sensitive to the assumptions used; actual amounts could vary widely depending on inflation and Part B program costs.

Impact on Medicare/Medicaid Financing and the Federal Budget

Medicare Part B (SMI) Trust Fund Impact

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. The CMS actuaries state the following:

> In the absence of much higher premiums, the assets of the Part B trust fund account would decline significantly below the level considered appropriate for a contingency reserve. A significant probability would exist that the trust fund would become exhausted during the 2010-2012 period.[31]

The CMS actuaries also point out that neither substantial increases in Part B premiums nor trust fund exhaustion would be necessary if Congress allowed physician payments to be cut as scheduled under current law.[32] However, the 21% decrease in physician fees in 2010 dictated by the SGR would be a significant reduction that could jeopardize Medicare beneficiary access to participating physicians. Congress is seen as almost certain to act to address this situation. All of the estimates regarding the effects of the hold harmless provision assume that Congress overrides these cuts as it has done every year since 2002.

Medicaid Impact

Low-income beneficiaries who receive premium subsidies make up the substantial majority of those who are not held harmless. Under current law, state Medicaid programs will pay the entire amount of these beneficiaries' Part B premiums, including any increase. As a result, Medicaid costs would 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).

[31] CMS Actuary Letter, 4/8/09.

[32] Ibid.

Recent Legislative Activity

The interaction between Social Security benefits and Medicare premiums is a complex one that raises a number of issues. These issues may include the impact of having no Social Security COLA on seniors who are projected to face higher Part D premiums and higher out-of-pocket medical costs, the impact of the hold harmless provision on the Part B premiums paid by beneficiaries who are not held harmless, and other issues. Several bills before the 111th Congress would address one or more of these issues.

Changes to Medicare

Representative Titus introduced H.R. 3631, the Medicare Premium Fairness Act, which would freeze the 2010 monthly Medicare Part B Premium at the 2009 premium level. This premium freeze would be offset by transferring $576 million from the Medicare Improvement Fund, which was established in 2008 under P.L. 110-252. H.R. 3631 passed the House on September 24, 2009, by a vote of 406-18.

H.R. 1832, the Medicare Prescription Drug Affordability Act of 2009, would amend the Social Security Act to limit the increase in premium costs for beneficiaries under the Medicare prescription drug program to no more than the Social Security cost-of-living adjustment, among other provisions.

The discussion draft of H.R. 3200 contained a proposal to suspend, temporarily, the requirement that the Part B premium revenues cover 25% of Medicare Part B, protecting all Medicare beneficiaries from the effect of the projected Part B premium increase and covering the resulting financing shortfall using general revenues. CBO estimated that this proposal (Section 1233 of Division B of the House Tri-Committee Health Reform Discussion Draft, as released on June 19, 2009) would have required $1.8 billion in additional outlays in 2010 and $0.6 billion in 2011.[33] However, this provision was not included in any of the versions of the health care bill reported out of the three committees of jurisdiction.

Changes to Social Security

Several bills introduced in the 111th Congress would provide a cost-of-living increase for Social Security benefits, or a one-time payment to beneficiaries, in 2010. Most of these bills do not directly address the issue of the Part B premiums but rather focus on payments to beneficiaries. Specifically, none of the bills propose any relief to states, which would bear the additional burden of increased Part B premiums for the dual eligibles.

Representative Jones introduced H.R. 3557, which would provide a COLA increase in 2010 equal to the average increase in the 10 calendar years preceding 2009 (about 2.6%). Representative Alexander introduced H.R. 3572 , the COLA Assistance Act of 2009, which would deem the 2010 COLA to be 2.9% (half the 2009 COLA). A positive COLA increase in 2009 would result in more

[33] See CBO, "Preliminary Estimate of the Effects on Direct Spending and Revenues of Division B, Titles I-VII and Section 1872, of the House Tri-Committee Health Reform Discussion Draft," released July 8, 2009, and accessible at http://www.cbo.gov/ftpdocs/104xx/doc10446/PreliminaryEstimateDivisionB.pdf.

Social Security beneficiaries paying Medicare premium, and fewer beneficiaries being held harmless from Medicare Part B premium increases. Representative Kagen introduced H.R. 3211, the Cost of Living Equity Act, which would amend the Social Security Act to provide that the COLA applied to Social Security benefits should in no case be less than the percentage increase in compensation provided to Members of Congress.

Several other bills would provide one-time additional Social Security payments in 2010. Representative McCarthy introduced H.R. 3536, the Social Security COLA Fix for 2010 Act, which would provide a one-time Social Security benefit increase of $150 in 2010. Representative McCarthy also introduced H.R. 3672, the Social Security COLA Fix for 2010 Act, which would provide a one-time benefit increase of $150 in 2010 and also eliminate the requirement that there be a Social Security COLA for an adjustment to the Social Security contribution and benefit base to occur.

Representative DeFazio introduced H.R. 3597, the Emergency Senior Citizens Relief Act of 2009, and Senator Sanders has introduced a companion bill, S. 1685, in the Senate. Both H.R. 3597 and S. 1685 would provide a one-time additional payment of $250 in 2010 to all Social Security recipients (including SSDI beneficiaries), railroad retirees, beneficiaries of Supplemental Security Income, and adults receiving veterans' benefits. H.R. 3597 and S. 1685 would fully pay for the one-time $250 payment by applying the Social Security payroll (FICA) tax to household earnings above $250,000 and below $359,000 in 2010. Representative DeFazio has also introduced H.R. 3810, which would provide a one-time $250 payment to be financed by a temporary application, in 2010, of the FICA tax to wages and self-employment income in excess of $1,290,000.

Representative Granger introduced H.R. 3677, the Save Our Seniors' Social Security Act of 2009, which would provide a one-time payment of $280 to individuals who had received Social Security or Railroad Retirement benefit payments in December 2009, January 2010, or February 2010 to be financed with unobligated monies from the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, known as ARRA).

Representative Brown-Waite introduced H.R. 3691, the Seniors and Veterans Economic Stimulus ("SAVES") Act of 2009, to provide in 2010 the $250 payment made under the American Recovery and Reinvestment Act in 2010 and to be paid for by redirecting unobligated ARRA funds.

President Obama called on Congress to extend an additional $250 Economic Recovery Payment in 2010 to seniors, the disabled, veterans, railroad retirees, and retired public employees who do not receive Social Security. The White House put the cost of the payments at $13 billion from an unspecified source of financing, although the President ruled out drawing down the Social Security trust funds.[34]

[34] For more information, see http://www.whitehouse.gov/the_press_office/President-Obama-Calls-on-Congress-to-Extend-Economic-Recovery-Payment-for-2010/.

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