

THE FLORIDA ALLIANCE FOR RETIRED AMERICANS, INC.

Quarterly Executive Board Meeting

LEGISLATIVE REPORT



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December 4th, 2009

2010 - Here it Comes

We all know that there will be no COLA in 2010: Congress has taken no action yet to help people on Social Security deal with the erosion of buying power to their benefits due to no annual cost-of-living adjustment (COLA) next year and possibly even 2011.

Social Security funding problems, Social Security reform in the offing for 2010? Social Security is running short on the cash revenues needed to pay today's retirees, and faces a major financing crisis unless something is done immediately.

Some think the problem is worse than the public is led to believe, and will continue even after our economy recovers and unemployment falls in large measure because of the continued aging and retirement of baby boomers, and the unexpected increase in early retirement by older workers unable to find work in this tough economy. Because of this grave situation, the President and Congress have talked about taking steps to reform Social Security in 2010.

Medicare funding problems. Medicare premiums are increasing in 2010 and Medicare continues to be the federal program running up the biggest deficit. Unless dramatic changes take place, Medicare will be insolvent in the next decade because fewer workers are paying taxes to finance the system at the same time the number of beneficiaries is increasing.

Some potential ways to reduce Medicare spending include cutting waste, fraud and abuse in Medicare, tort reform to reduce the costs of "defensive medicine," and perhaps most importantly, determining the best models of how to finance care by applying the best research and practices.

The U.S.-Mexico Social Security Totalization Agreement remains a potential threat to all Social Security recipients. Until the U.S. President makes a decision, if and when the President signs the agreement, Congress would have only 60 legislative days to review it. Two Members of Congress have bills that, if passed, would reject

the agreement: Sen. John Ensign's S.42, the Social Security Totalization Agreement Reform Act, and Rep. John Culberson's Anti-Totalization Resolution, H.Res. 394.

Arrests Made in Medicare Fraud Across U.S.

More than 200 Federal agents worked on the arrest of more than 30 suspects, including doctors, and were seeking others in a major Medicare fraud bust Wednesday in New York, Louisiana, Boston and Houston, targeting scams that sold expensive braces that many patients never even used.

The bust cost \$16 million and included 12 search warrants at health care businesses and homes across the Houston area, where the bulk of the arrests were made.

Federal authorities say those businesses were giving patients so called "Arthritis kits," which were nothing more than expensive items that included knee and shoulder braces and heating pads. Patients told authorities they did not need them, and many never even received them. But health care clinic owners billed between \$3,000 and \$4,000 for each kit.

Houston's other scams involved billing Medicare for thousands of dollars' worth of liquid food, such as Ensure for patients who could not eat solid food. Authorities said clinic owners never distributed the food to patients. In some cases, clinic owners billed patients who were dead when they allegedly received the items.

It's the third major sweep since Attorney General Eric Holder, Health and Human Services Secretary Kathleen Sebelius announced in May they were adding millions of dollars and dozens of agents to combat a problem that costs the U.S. billions each year.

Using about a dozen agents in targeted cities, including Miami, the Medicare Fraud Strike Force, has recovered \$371 million in false Medicare claims and charged 145 people across the country in just two months.

By surprise, female employees arriving for work one morning at Memorial Medical Supply, which is in a strip mall in southwest Houston were met by federal agents. Authorities confiscated

paperwork and a computer. Owners of the business did not respond to calls from the Associated Press.

The first strike force started in 2007 in Miami, and is responsible for more than \$3 billion per year in Medicare fraud. Clinic owners there would bill Medicare dozens of times for the same wheelchair, while never giving the medical equipment to patients.

Illegal Mexican Workers and Social Security Benefits

Mexican immigrants who illegally worked in the United States would have a stronger claim to U.S. Social Security benefits under a **Totalization** agreement with Mexico than what U.S. citizens enjoy.

The pending totalization agreement has been signed by both the Mexican and U.S. Social Security Administrations, but has not yet been sent to Congress for approval. It provides Mexican beneficiaries with a contractual promise made between the government of the United States and the government of Mexico, the legal analysis says.

Yet no such contractual promise exists for U.S. citizens today, who have no legal recourse to any of the payroll taxes they pay into Social Security. The 1960 Supreme Court case, *Flemming vs. Nestor*, established the principle that entitlement of U.S. citizens to Social Security benefits is not a contractual right. Section 1104 of the 1935 Social Security Act specifically said: "The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress."

To learn more about the Supreme Courts *Flemming vs. Nestor* decision visit:

<http://www.ssa.gov/history/nestor.html>

After legal research and analysis it was found that as beneficiaries under the pending totalization agreement, Mexican workers would have legally enforceable rights in U.S. courts to obtain their benefits, **rights that US citizens do NOT have.**

The analysis is sure to spark widespread and heated controversy. At issue is whether the agreement with Mexico would provide U.S. Social Security benefits to millions of Mexican immigrants, and their families, who worked here illegally.

Despite a 2004 law that prohibits the payment of Social Security benefits to illegal immigrants, a non-citizen may receive benefits, including benefits based on illegal work, if he or she meets one of the exceptions to the law. One of those exceptions applies to individuals

who are residents of a country with which the United States has a totalization agreement. Under the agreement it appears that all illegal Mexican workers would have to do is to return to Mexico and file a claim for benefits.

Totalization agreements allow workers who divide their careers between the United States and the other nation to earn generic work “credits” good for receiving benefits in either nation. These credits can be totaled together, in order for the individual to become entitled to benefits. When this occurs the Social Security Administration counts all earnings, even for work performed illegally.

Two pieces of legislation in the Senate to address totalization issues: S. 42 introduced by Senator John Ensign, and S. 115 introduced by Senator David Vitter. Two bills were also introduced in the House: H.Res. 394 introduced by Representative John Culberson, and H.R. 160 introduced by Representative Ron Paul.

H.Res. 394 expresses disapproval of the Social Security totalization agreement between the U.S. and Mexico and would block it from taking effect, and the related measure, H.R. 160, The Social Security for Americans Only Act, would not allow self-employed income and wages earned while illegal to be credited for claiming benefits.

Medicare Part B Premiums Rising 15% Next Year

Basic monthly Medicare Part B premiums are making a huge 15% jump in 2010 after making no increase at all in 2009 — rising from \$96.40 to \$110.50. But because there will be no annual cost-of-living adjustment (COLA) in 2010, about 73 percent of beneficiaries will be shielded from the increase by a hold harmless provision of current law. For those individuals, their monthly Part B premium will remain \$96.40.

For the other 27% who are not protected by the hold harmless provision, however, they will pay a higher premium. Who will pay more?

- New enrollees. People who enroll in Medicare Part B for the first time in 2010 will pay the higher premium.
- Beneficiaries who pay higher income-related, or Means Tested, premiums.
- Beneficiaries who qualify for both Medicare and Medicaid and whose Part B premiums are paid on their behalf by Medicaid.

The Obama Administration is urging Congressional action to protect all beneficiaries from the higher premiums. If passed, the basic monthly Medicare Part B premiums that cover doctors and hospital outpatient services would remain at \$96.40 and not increase. The U.S. House recently passed legislation that would freeze the Medicare Part B premium at the 2009 level.

To learn more about the Medicare premium and deductible increases in 2010, visit: <http://www.medicare.gov>

Overhaul for Social Security on Agenda

According to the Congressional Budget Office, Social Security will have an estimated cash revenue shortfall of \$10 billion next year and \$9 billion in 2011 the first such shortfalls since the 1980s. With unemployment hovering over 10 percent, the cash revenues required to fund benefits for today's retirees have plummeted. And even while the program's cash resources are disappearing, enrollment is growing much faster than expected. As senior workers lose their jobs, they are starting Social Security earlier than planned to make ends meet.

With the federal budget depleting, an overhaul of Social Security is next on the White House agenda. Key lawmakers from both parties held tentative talks earlier this year, and President Obama says that work to rein in the escalating costs of Social Security will begin at the end of this year or early next year, the same time Congress may be working on immigration amnesty legislation.

What should be done? One option that may help reduce the immediate shortfall is to tighten restrictions on payment of Social Security benefits to immigrants that is based on illegal work. Currently, when determining entitlement to U.S. Social Security benefits, the Social Security Administration includes both the amount of time employed and earnings for jobs worked while illegal, even if a fraudulent or invalid Social Security number was used. This policy is unfair to people who paid into the system as legal workers, and jeopardizes program solvency. Legislation should be made that would ban the payment of Social Security benefits based on illegal work.

Some believe that over the long term that Congress should raise Social Security's retirement age. As Americans live longer, we're spending more years in retirement and receiving Social Security benefits over a longer period. Without action by Congress, Social Security's income won't keep pace with the ever-growing benefit obligations. The sooner we act, the more options our lawmakers will have. Changes could be phased in more gradually, and reductions in benefits or increases in taxes can be smaller and less painful. Delays only subject both present and future retirees to deeper and more

painful cuts and higher taxes on benefits in the future.

Taking Charge of Spending and Saving

Today's lifestyle has changed; those of us who lived during the great recession were taught how to take charge of their finances.

It's a lesson many are heeding today. People are saving more and spending less. The personal savings rate has risen to more than 4 percent after sinking to near zero in the end of last year's meltdown. The number of people getting financial counseling is 3.2 million; double the amount two years ago.

In ways big and small, from scrutinizing their bills and joining credit unions to scaling back weddings and college plans, people are finding creative ways to deal with the worst recession in a generation. In short, there's a quiet revolution taking place in the way people save, borrow and spend that represents a retreat from old habits, and the first steps toward new ones.

While personal income is down slightly since the recession officially began in late 2007, the personal savings rate is rising. In 2007 the savings rate stood at 1.7 percent of after-tax income. That climbed to 2.7 percent in 2008, and in July, the most recent data available hit 4.2 percent. As people fear losing their jobs, they will save more: Economists expect the savings rate to top 6 percent in coming months if unemployment which was 9.7 percent in August, continues to rise.

Reducing credit card debt can be one of the quickest ways to save. With credit card companies charging more than 13 percent on average - and up to 30 percent for people with poor credit - reducing or eliminating that monthly payment will save money.

Financial planners used to advise consumers to save enough money to cover their expenses for three months. When the worst of the recession hit, advisers told their clients to boost their emergency savings to six months. Now, they are urging them to save enough to cover a full year of expenses because credit lines and job security aren't guaranteed.

One big reason to save more now: Homeowners can't depend on rising property values to refinance their mortgages to help cover household expenses.

People are flocking to bank and money management Web sites to compare interest rates and share advice. Traffic to personal financial management Web sites, where users can analyze their saving and spending, has soared.

The key to having money is to **“Treat your savings as an expense”** and set aside your savings before paying other bills. When the bills are paid off, they shift that money into savings accounts.

And if you're not participating in your company's 401(k), start now. If you are and don't save as much as you can, increase your monthly contribution. Remember that you can borrow money to help send your kids to college, but there aren't any loans for retirees.

People are saving more and cutting their debts. But at some point, they'll start spending more. Businesses big and small hope so. What's emerging so far, though, is a more prudent consumer.

The use of coupons soared 19 percent in the first six months of this year compared to the first half of 2008. People are reading bills more closely, looking for mistakes and to identify services to eliminate. Just look at where the senior retirees shop and eat, good chance they know something you may not be aware of.