



Entitlements and Appropriated Entitlements in the Federal Budget Process

Bill Heniff Jr.

Analyst on Congress and the Legislative Process

November 26, 2012

Congressional Research Service

7-5700

www.crs.gov

RS20129

CRS Report for Congress

Prepared for Members and Committees of Congress

Entitlements are programs that require payments to persons, state or local governments, or other entities if specific eligibility criteria established in the authorizing law are met. Entitlement payments are legal obligations of the federal government, and eligible beneficiaries may have legal recourse if full payment under the law is not provided. This report provides a brief explanation of spending for entitlements, including so-called appropriated entitlements, and discusses the procedural and statutory constraints on legislation affecting such entitlement spending.

Entitlement Spending

Entitlement spending is a form of mandatory spending (also referred to as direct spending), which currently comprises more than half of total federal spending. Spending on entitlements is not controlled through the annual appropriations process. Instead, entitlement spending is based on the eligibility and benefit criteria established in law, which is under the jurisdiction of the various authorizing committees of the House and Senate. The total amount of spending on entitlements is determined by the aggregate total of all individual benefits. Most entitlement spending, such as for Medicare, is not capped at a specific spending level, and typically increases (but may decrease) each year as the number of eligible beneficiaries and the authorized benefit payments increases (or decreases). However, some entitlement spending—particularly entitlement payments to states, such as the State Children’s Health Insurance Program (commonly referred to as CHIP)—is capped at a specific level provided in the authorizing law.

Most entitlement spending bypasses the annual appropriations process altogether and is funded by permanent or multiyear appropriations in substantive law. Such spending becomes available automatically each year, without legislative action by Congress. Examples of such programs include Social Security, Medicare, and federal employee retirement.

A portion of entitlement spending, such as Medicaid and certain veterans’ programs, is funded in annual appropriations acts. Such entitlement spending, referred to as *appropriated entitlements*, comprises roughly 36%-38% of funding provided in the annual appropriations acts. While the funding is provided in the annual appropriations acts, the level of spending for appropriated entitlements is not controlled through the annual appropriations process. Instead, the level of spending for appropriated entitlements, like other entitlements, is based on the benefit and eligibility criteria established in law, and the amount provided in appropriations acts is based on meeting this projected level.

Procedural Controls on Entitlement Spending Legislation

The Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 2 U.S.C. 601-688), as amended, provides for the annual adoption of a budget resolution to serve as a framework for the consideration of budgetary legislation each year. Accordingly, the budget resolution contains projected spending levels, including entitlement spending, under existing law, adjusted for any proposed policy changes, for a period of at least five fiscal years. The projected spending totals, however, do not include spending for the largest entitlement program, Social Security, which is excluded by law from the totals and presented separately.

The budget resolution also may include reconciliation directives instructing House and Senate authorizing committees to recommend legislative changes to existing laws affecting entitlements to meet the recommended levels of spending. Once reported, such reconciliation legislation is considered under special procedures on the House and Senate floor.¹

Separate from any reconciliation directives, entitlement spending legislation may originate under the normal legislative process, initiated by the authorizing committees or individual members. Section 303 of the Budget Act, however, prohibits entitlement spending legislation from being considered before a budget resolution has been adopted.

When entitlement spending legislation is considered, its content is restricted under the rules of the congressional budget process.² First, Section 302(f) of the Budget Act prohibits the consideration of any entitlement legislation that would cause a committee to exceed its spending allocation associated with the most recently adopted budget resolution for the first fiscal year or the total of all fiscal years. A committee's spending allocation, commonly referred to as its Section 302(a) spending allocation, reflects the amount of mandatory spending, including entitlement spending, under its jurisdiction. Second, Section 311(a) of the Budget Act prohibits consideration of any entitlement legislation that would cause spending to exceed the agreed upon total spending levels contained in the budget resolution for the first fiscal year.³ Third, Section 401(b) of the Budget Act generally prohibits the consideration of any legislation providing new entitlement spending that would become effective in the current fiscal year.

In addition, the House CutGo and Senate PAYGO rules restrict the consideration of legislation affecting entitlement spending. The House CutGo rule (Rule XXI, clause 10) prohibits the consideration of legislation that has the net effect of increasing mandatory spending over either a six-year or an 11-year period; that is, legislation increasing mandatory spending generally would need to be offset by an equivalent amount of mandatory spending reductions. The Senate PAYGO rule (Section 201 of S.Con.Res. 21, the FY2008 budget resolution) prohibits the consideration of legislation affecting mandatory spending (as well as revenues) that would have the net effect of increasing the deficit over the same six- and 11-year periods; that is, legislation increasing mandatory spending generally would need to be offset by an equivalent amount of mandatory spending reductions or, in contrast to the House CutGo rule, revenue increases, or a combination of the two.⁴

Finally, legislation affecting the Social Security program, the largest entitlement, also is constrained by congressional budget procedures. First, a budget resolution that would decrease the Social Security surplus is subject to a point of order in the Senate under Section 301(i) of the Budget Act. Second, Section 311(a)(3) provides a point of order in the Senate against any legislation that would cause Social Security surpluses to decrease or deficits to increase relative to the levels set forth in a budget resolution. In addition, Section 13302 of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508) established a point of order in the House prohibiting the

¹ For further information on the reconciliation process, see CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by Robert Keith and Bill Heniff Jr.

² For further information on the enforcement of the budget resolution, see CRS Report 98-815, *Budget Resolution Enforcement*, by Bill Heniff Jr.

³ In the House, the point of order under Section 311(a) applies only to legislation that also would cause the applicable committee spending allocation (i.e., the applicable Section 302(a) allocation) to be exceeded.

⁴ For further information on the Senate PAYGO rule, see CRS Report RL31943, *Budget Enforcement Procedures: Senate Pay-As-You-Go (PAYGO) Rule*, by Bill Heniff Jr.

consideration of any legislation that would change certain balances of the Social Security trust funds over specified periods. Lastly, a point of order under Section 310(g) may be raised in the House and Senate against a reconciliation bill that contains recommendations relating to the Social Security program.

A point of order is the procedural mechanism for enforcing the rules governing the consideration of entitlement spending legislation. Points of order, however, are not self-enforcing; a Member must raise a point of order to enforce such rules. Budget enforcement points of order also may be waived. In the House, a point of order may be waived by unanimous consent, by suspension of the rules, or by a special rule reported by the Rules Committee and adopted by the full House. In the Senate, points of order under the Budget Act or provided in budget resolutions, such as the PAYGO point of order, may be waived by unanimous consent or by motion as provided under Section 904 of the Budget Act. A motion to waive most Budget Act points of order requires an affirmative vote of three-fifths of all Senators duly chosen and sworn (60 votes if there are no vacancies); Section 303 of the Budget Act may be waived by a majority vote.

Statutory Controls on Entitlement Spending Legislation

Entitlement spending legislation is also controlled by the Statutory Pay-As-You-Go Act of 2010 (Title I of P.L. 111-139, 124 Stat. 8-29). The statutory PAYGO rule is intended to discourage or prevent Congress from taking certain legislative action that would increase the on-budget deficit.⁵ It generally requires that legislation affecting entitlement spending (and revenues) not increase the deficit over a six-year and 11-year period.⁶

The statutory PAYGO requirement is enforced by sequestration—the cancellation of budgetary resources provided by laws affecting direct spending—to eliminate an increase in the deficit resulting from the enactment of legislation. Generally, the statutory PAYGO rule provides that if the net effect of new entitlement spending and revenue legislation enacted during a year increases the deficit (i.e., violates the PAYGO requirement), budgetary resources in certain entitlement spending programs are cut in order to eliminate the increase in the deficit.

Many entitlement spending programs and activities, including Social Security benefits, veterans' programs, retirement and disability benefits, and low-income programs, among others, are exempt from any sequestration. In addition, the amount of any sequestration is limited to 4% for Medicare and 2% for certain health and medical care activities.

⁵ For more detailed information on the statutory requirement, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

⁶ The PAYGO statute exempts the budgetary effects of any direct spending and revenue provisions designated in statute as an emergency from being counted for purposes of the PAYGO requirement.

Author Contact Information

Bill Heniff Jr.
Analyst on Congress and the Legislative Process
wheniff@crs.loc.gov, 7-8646