Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* AUBURN REGIONAL MEDICAL CENTER ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11–1231. Argued December 4, 2012—Decided January 22, 2013

The reimbursement amount health care providers receive for inpatient services rendered to Medicare beneficiaries is adjusted upward for hospitals that serve a disproportionate share of low-income patients. The adjustment amount is determined in part by the percentage of a hospital's patients who are eligible for Supplemental Security Income (SSI), called the SSI fraction. Each year, the Centers for Medicare & Medicaid Services (CMS) calculates the SSI fraction for an eligible hospital and submits that number to the hospital's "fiscal intermediary," a Department of Health and Human Services (HHS) contractor. The intermediary computes the reimbursement amount due and then sends the hospital a Notice of Program Reimbursement (NPR). A provider dissatisfied with the determination has a right to appeal to the Provider Reimbursement Review Board (PRRB or Board) within 180 days of receiving the NPR. 42 U. S. C. §1395*oo*(a)(3). By regulation, the Secretary of HHS authorized the PRRB to extend the 180-day limit, for good cause, up to three years. See 42 CFR 405.1841(b) (2007).

The Baystate Medical Center—not a party here—timely appealed its SSI fraction calculation for each year from 1993 through 1996. The PRRB found that errors in CMS's methodology resulted in a systematic undercalculation of the disproportionate share adjustment and corresponding underpayments to providers. In March 2006, the Board's *Baystate* decision was made public. Within 180 days, respondent hospitals filed a complaint with the Board, challenging their adjustments for 1987 through 1994. Acknowledging that their challenges were more than a decade out of time, they urged that eq-

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

Syllabus

uitable tolling of the limitations period was in order due to CMS's failure to tell them about the computation error. The PRRB held that it lacked jurisdiction, reasoning that it had no equitable powers save those legislation or regulation might confer. On judicial review, the District Court dismissed the hospitals' claims. The D. C. Circuit reversed. The presumption that statutory limitations periods are generally subject to equitable tolling, the court concluded, applied to the 180-day time limit because nothing in §1395*oo*(a)(3) indicated that Congress intended to disallow such tolling.

Held:

1. The 180-day limitation in §1395*oo*(a)(3) is not "jurisdictional." Pp. 6–9.

(a) Unless Congress has "clearly state[d]" that a statutory limitation is jurisdictional, the restriction should be treated "as nonjurisdictional." *Arbaugh* v. *Y & H Corp.*, 546 U. S. 500, 515–516. "[C]ontext, including this Court's interpretations of similar provisions in many years past," is probative of whether Congress intended a particular provision to rank as jurisdictional. *Reed Elsevier, Inc.* v. *Muchnick*, 559 U. S. ___, ___. If §1395*oo*(a)(3) were jurisdictional, the 180-day time limit could not be enlarged by agency or court.

Section 1395*oo*(a)(3) hardly reveals a design to preclude any regulatory extension. The provision instructs that a provider "may obtain a hearing" by filing "a request . . . within 180 days after notice of the intermediary's final determination." It "does not speak in jurisdictional terms." *Zipes* v. *Trans World Airlines, Inc.*, 455 U. S. 385, 394. This Court has repeatedly held that filing deadlines ordinarily are not jurisdictional; indeed, they have been described as "quintessential claim-processing rules." *Henderson* v. *Shinseki*, 562 U. S. ___, ___. Pp. 6–8.

(b) Court-appointed *amicus* urges that §1395*oo*(a)(3) should be classified as a jurisdictional requirement based on its proximity to §§1395*oo*(a)(1) and (a)(2), both jurisdictional requirements, *amicus* asserts. But a requirement that would otherwise be nonjurisdictional does not become jurisdictional simply because it is in a section of a statute that also contains jurisdictional provisions. *Gonzalez* v. *Thaler*, 565 U. S. ___, ___. *Amicus* also urges that the Medicare Act's express grant of authority for the Secretary to extend the time for beneficiary appeals implies the absence of such leeway for §1395*oo*(a)(3)'s provider appeals. In support, *amicus* relies on the general rule that Congress's use of "certain language in one part of the statute and different language in another" can indicate that "different meanings were intended," *Sosa* v. *Alvarez-Machain*, 542 U. S. 692, 711, n. 9. But that interpretive guide, like other canons of construction, is "no more than [a] rul[e] of thumb" that can tip the scales when a statute

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

Syllabus

could be read in multiple ways. *Connecticut Nat. Bank* v. *Germain*, 503 U. S. 249, 253. Here, §1395*oo*(a)'s limitation is most sensibly characterized as nonjurisdictional. Pp. 8–9.

2. The Secretary's regulation is a permissible interpretation of §1395*oo*(a)(3). Pp. 10–14.

(a) Congress vested in the Secretary large rulemaking authority to administer Medicare. A court lacks authority to undermine the Secretary's regime unless her regulation is "arbitrary, capricious, or manifestly contrary to the statute." *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837, 844. Here, the regulation survives inspection under that deferential standard. The Secretary brought to bear practical experience in superintending the huge program generally, and the PRRB in particular, in maintaining a three-year outer limit for intermediary determination challenges. A court must uphold her judgment as long as it is a permissible construction of the statute, even if the court would have interpreted the statute differently absent agency regulation. Pp. 10–11.

(b) A presumption of equitable tolling generally applies to suits against the United States, *Irwin* v. *Department of Veterans Affairs*, 498 U.S. 89, 95–96, but application of this presumption is not in order for §1395*oo*(a)(3). This Court has never applied *Irwin*'s presumption to an agency's internal appeal deadline. The presumption was adopted in part on the premise that "[s]uch a principle is likely to be a realistic assessment of legislative intent." *Irwin*, 498 U. S., at 95. That premise is inapt in the context of providers' administrative appeals under the Medicare Act. For nearly 40 years the Secretary has prohibited the Board from extending the 180-day deadline, except as provided by regulation. In the six times §1395*oo* has been amended since 1974, Congress has left untouched the 180-day provision and the Secretary's rulemaking authority. Furthermore, the statutory scheme, which applies to sophisticated institutional providers, is not designed to be "'unusually protective' of claimants." *Bowen* v. *City of New York*, 476 U. S. 467, 480. Nor is the scheme one "in which laymen, unassisted by trained lawyers, initiate the process." *Zipes*, 455 U. S., at 397.

The hospitals ultimately argue that the Secretary's regulations fail to adhere to "fundamentals of fair play." *FCC* v. *Pottsville Broadcasting Co.*, 309 U. S. 134, 143. They point to 42 CFR §405.1885(b)(3), which permits reopening of an intermediary's reimbursement determination "at any time" if the determination was procured by fraud or fault of the provider. But this Court has explained that giving intermediaries more time to discover overpayments than providers have to discover underpayments may be justified by the "administrative realities" of the system: a few dozen fiscal intermediaries are charged

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

Syllabus

with issuing tens of thousands of NPRs, while each provider can concentrate on a single NPR, its own. *Your Home Visiting Nurse Services, Inc.* v. *Shalala*, 525 U. S. 449, 455, 456. Pp. 11–14.

642 F. 3d 1145, reversed and remanded.

GINSBURG, J., delivered the opinion for a unanimous Court. SOTOMAYOR, J., filed a concurring opinion.

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 11–1231

KATHLEEN SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES, PETITIONER *v.* AUBURN REGIONAL MEDICAL CENTER ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[January 22, 2013]

JUSTICE GINSBURG delivered the opinion of the Court.

This case concerns the time within which health care providers may file an administrative appeal from the initial determination of the reimbursement due them for inpatient services rendered to Medicare beneficiaries. Government contractors, called fiscal intermediaries, receive cost reports annually from care providers and notify them of the reimbursement amount for which they qualify. A provider dissatisfied with the fiscal intermediary's determination may appeal to an administrative body named the Provider Reimbursement Review Board (PRRB or Board). The governing statute, §602(h)(l)(D), 97 Stat. 165, 42 U. S. C. §1395*oo*(a)(3), sets a 180-day limit for filing appeals from the fiscal intermediary to the PRRB. By a regulation promulgated in 1974, the Secretary of the Department of Health and Human Services (HHS) authorized the Board to extend the 180-day limitation, for good cause, up to three years.[1]

[1]The agency was called the Department of Health, Education, and Welfare until 1979, but for simplicity's sake we refer to it as HHS

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.