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

SHALALA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. *v.* ILLINOIS COUNCIL ON LONG TERM CARE, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 98–1109. Argued November 8, 1999– Decided February 29, 2000

Under the Medicare Act's special review provisions, a nursing home that is "dissatisfied . . . with *a determination described in subsection (b)(2)"* is "entitled to a hearing . . . to the same extent as is provided in" the Social Security Act, 42 U. S. C. §405(b), "and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) . . . ." 42 U. S. C. §1395cc(h)(1) (emphasis added). The cross-referenced subsection (b)(2) gives petitioner Secretary of Health and Human Services (HHS) power to terminate a provider agreement with a home where, for example, she determines that a home has failed to comply substantially with the statute and the regulations. The cross-referenced §405(b) describes the administrative hearing to which a "dissatisfied" home is entitled, and the cross-referenced §405(g) provides that the home may obtain federal district court review of the Secretary's "final decision . . . made after a hearing . . . ." Section 405(h), a provision of the Social Security Act incorporated into the Medicare Act by 42 U. S. C. §1395ii, provides that "[n]o action . . . to recover on any claim arising under" the Medicare laws shall be "brought under [28 U. S. C. §]1331." It channels most, if not all, Medicare claims through this special review system. Respondent, the Illinois Council on Long Term Care, Inc. (Council), an association of nursing homes, did not rely on these provisions when it filed suit against, *inter alios,* petitioners (hereinafter Secretary), challenging the validity of Medicare regulations that impose sanctions or remedies on nursing homes that violate certain substantive standards. Rather, it invoked federal-question jurisdiction, 28 U. S. C. §1331. In dismissing for lack of jurisdiction, the Federal District Court found

that 42 U. S. C. §405(h), as interpreted in *Weinberger* v. *Salfi*, 422 U. S. 749, and *Heckler* v. *Ringer*, 466 U. S. 602, barred a §1331 suit. The Seventh Circuit reversed, holding that *Bowen* v. *Michigan Academy of Family Physicians*, 476 U. S. 667, had significantly modified such earlier case law.

Held: Section 405(h), as incorporated by §1395ii, bars federal-question jurisdiction here. Pp. 6–21.

(a) Section 405(h) purports to make exclusive §405(g)'s judicial review method. While its "to recover on any claim arising under" language plainly bars §1331 review where an individual challenges on any legal ground the agency's denial of a monetary benefit under the Social Security and Medicare Acts, the question here is whether an anticipatory challenge to the lawfulness of a policy, regulation, or statute that might later bar recovery or authorize imposition of a penalty is also an action "to recover on any claim arising under" those Acts. Pp. 6–7.

(b) Were the Court not to take account of *Michigan Academy*, §405(h), as interpreted in *Salfi* and *Ringer*, would clearly bar this §1331 lawsuit. The Court found in the latter cases that §405(h) applies where "both the standing and the substantive basis for the presentation" of a claim is the Social Security Act, *Salfi*, *supra*, at 760–761, or the Medicare Act, *Ringer*, 466 U. S., at 615. All aspects of a present or future benefits claim must be channeled though the administrative process. *Id.*, at 621–622. As so interpreted, §405(h)'s bar reaches beyond ordinary administrative law principles of "ripeness" and "exhaustion of administrative remedies"– doctrines that normally require channeling a legal challenge through the agency– by preventing the application of exceptions to those doctrines. This nearly absolute channeling requirement assures the agency greater opportunity to apply, interpret, or revise policies, regulations, or statutes without possibly premature interference by individual courts applying "ripeness" and "exhaustion" exceptions case by case. The assurance comes at the price of occasional individual, delay-related hardship, but paying such a price in the context of a massive, complex health and safety program such as Medicare was justified in the judgment of Congress as understood in *Salfi* and *Ringer*. *Salfi* and *Ringer* cannot be distinguished from the instant case. They themselves foreclose distinctions based upon the "potential future" versus "actual present" nature of the claim, the "general legal" versus the "fact-specific" nature of the challenge, the "collateral" versus the "non-collateral" nature of the issues, or the "declaratory" versus "injunctive" nature of the relief sought. Nor can the Court accept a distinction that limits §405(h)'s scope to claims for monetary benefits or that involve "amounts," as neither the language nor the purposes of

§405 support such a distinction. Neither *McNary* v. *Haitian Refugee Center, Inc.*, 498 U. S. 479, nor *Mathews* v. *Eldridge*, 424 U. S. 319, supports the Council's effort to distinguish *Salfi* and *Ringer*. The Court's approval of a §1331 suit against the Immigration and Naturalization Service in *McNary* rested on the different language of the immigration statute. And *Eldridge* was a case in which the respondent had complied with, not disregarded, the Social Security Act's special review procedures– specifically the nonwaivable and nonexcusable requirement that an individual present a claim to the agency before raising it in court. The upshot is that the Council's argument must rest primarily upon *Michigan Academy*. Pp. 7–12.

(c) *Michigan Academy* did not, contrary to the Court of Appeals' holding, modify the Court's earlier holdings by limiting §405(h)'s scope, as incorporated by §1395ii, to "amount determinations." That case involved the lawfulness of HHS regulations governing procedures used to calculate Medicare Part B benefits; and the Medicare statute, as it then existed, did not provide for §405(g) review of such decisions. The Court ruled that this silence did not itself foreclose §1331 review. In response to the argument that §405(h) barred §1331 review, the Court declined to pass in the abstract on the meaning of §405(h) because that section was made applicable to the Medicare Act "to the same extent as" it is applicable to the Social Security Act by virtue of 42 U. S. C. §1395ii. The Court interpreted that phrase to foreclose application of §405(h) where its application would preclude judicial review rather than channeling it through the agency. As limited by the Court of Appeals, *Michigan Academy* would have overturned or dramatically limited earlier precedents such as *Salfi* and *Ringer*, and would have created a hardly justifiable distinction between "amount determinations" and many similar HHS determinations. This Court does not normally overturn, or so dramatically limit, earlier authority *sub silentio*, and it did not do so here. Pp. 12–17.

(d) The Council's argument that it falls within the *Michigan Academy* exception because it can obtain no review at all unless it can obtain §1331 review is unconvincing. It argues that review is available only after the Secretary terminates a home's provider agreement. But in her brief and regulations, the Secretary offers a legally permissible interpretation of the statute: that it permits a dissatisfied nursing home to have an administrative hearing on a determination that it has failed to comply substantially with the statute, agreements, or regulations, whether termination or some other remedy is imposed. See, *e.g.*, *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837, 843. The Secretary also denies that she engages in any practice that forces a home to submit a corrective

plan and sacrifice appeal rights in order to avoid termination, or that penalizes more severely a home that chooses to appeal. Because the Council offers no convincing reason to doubt her description of the agency's practice, the Court need not decide whether a practice that forced homes to abandon legitimate challenges could amount to the practical equivalent of a total denial of judicial review. If, as the Council argues, the regulations unlawfully limit the extent to which the agency will provide the administrative review channel leading to judicial review, its members remain free, after following the special review route, to contest in court the lawfulness of the relevant regulation or statute. That is true even if the agency does not or cannot resolve the particular contention, because it is the "action" arising under the Medicare Act that must be channeled through the agency. The Council finally argues that, as an association speaking on behalf of its injured members, it has no standing to take advantage of the special review channel. However, it is the members' rights to review that are at stake, and the statutes creating the special review channel adequately protect those rights. Pp. 17–21.

143 F. 3d 1072, reversed.

BREYER, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SOUTER, and GINSBURG, JJ., joined. STEVENS, J., and SCALIA, J., filed dissenting opinions. THOMAS, J., filed a dissenting opinion, in which STEVENS and KENNEDY, JJ., joined, and in which SCALIA, J., joined except as to Part III.