

Issues at the Intersection of Social Security and Medicare

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Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. Since 1972, we've focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

Introduction

- Social Security benefits and Medicare benefits are closely intertwined, and most people who receive one also receive the other. When cross-program issues arise, particularly cross-program Medicare issues, they can be difficult to resolve because multiple agencies are involved in administering Medicare. This can make it challenging to determine which agency is responsible. Advocates can better identify and resolve these problems when they understand the context in which cross-program issues occur and the players involved.

Key Lessons

- Although most Social Security recipients are also enrolled in Medicare and most Medicare beneficiaries receive Social Security benefits, there is not complete overlap.
- The Social Security Administration (SSA) plays the lead role in determining eligibility for Medicare Parts A and B and in enrolling beneficiaries in the Medicare program. SSA also collects premiums and coordinates with state Medicaid agencies when states pay premiums for low-income individuals.
- Data exchange and interactions between SSA and Centers for Medicare and Medicaid Services (CMS), as well as with other state and federal agencies, are complex. For low-income individuals, exchanges with state Medicaid programs often are the source of problems or delays in benefits. Multi-pronged advocacy may be necessary to identify the source of problems.

How Social Security and Medicare Benefits Interact

Most people are simultaneously eligible for both Social Security and Medicare. This includes people who receive Social Security retirement or survivors' benefits and are age 65 or older; those who receive Social Security disability (SSDI) benefits, after a 24-month waiting period; and those who receive Supplemental Security Income (SSI) benefits and are age 65 or older.

Understanding Social Security benefits

Social Security Retirement and Survivors' Benefits

This can start as early as age 62 for retirement or age 60 for survivors, and it also covers dependents. The worker must have 10 years of work credits for retirement benefits; for survivors' benefits, the deceased worker may have fewer than 10 years of work credits.

SSDI

Requires a disabling condition. Work credit requirements vary with age, and it also covers dependents.

SSI

For people with little or no income. Must have a disabling condition or be age 65 or older, and no work credits required.

Some people receive a Social Security benefit but do not receive Medicare

There are several scenarios where this can happen:

- If someone qualifies for a Social Security benefit at a younger age than the Medicare eligibility age of 65. This could include people who take early retirement, which can start as early as age 62; widows and widowers who can start receiving survivors benefits as early as age 60; and minor children of workers receiving Social Security benefits.
- For people with disabilities, the key distinction is that SSDI incorporates Medicare eligibility while SSI does not. For someone who receives SSDI, Medicare is part of the package of eligibility; however, Medicare coverage only begins after a 24-month waiting period, meaning SSDI beneficiaries in their first 24 months of entitlement do not receive Medicare. However, people who are eligible for Medicare based on End Stage Renal Disease (ESRD) have a shorter waiting period, and people with amyotrophic lateral sclerosis (ALS or “Lou Gehrig’s disease”) have no waiting period and can receive Medicare as soon as they become entitled to SSDI.¹
- While SSI provides benefits to people with disabilities, Medicare is not part of the package of eligibility for disability-based SSI, meaning someone under age 65 receiving only SSI benefits based on disability will not be eligible for Medicare. Once an SSI beneficiary turns 65, or if an SSI beneficiary subsequently becomes eligible for some SSDI benefits based on work credits they earn while receiving SSI, then they will become eligible for Medicare.

Some people can enroll in Medicare even though they do not receive Social Security benefits

They include:

- People who qualify for Medicare because they are 65 or older but who do not have enough work credits for Social Security retirement benefits. If they enroll in Medicare Part A (the hospital benefit), they must pay premiums for their Part A coverage, which is free for those entitled to Social Security retirement. The Qualified Medicare Beneficiary (QMB) program can cover these premiums (and Part B premiums as well) for certain low-income individuals.²
- People who are eligible for Social Security retirement but choose not to start receiving those benefits until after 65. They still qualify for Medicare starting the month of their 65th birthday.
- Some people who are eligible for Medicare based on ESRD but might not have simultaneous eligibility for SSDI benefits.³

Which Agency Handles Which Process?

The SSA determines eligibility for Social Security benefits, which include Social Security retirement, disability, and survivor benefits, as well as SSI benefits based on disability or age.

¹ POMS HI 00801.215; POMS DI 11036.001.

² For QMB eligibility levels in each state, see NCOA, Medicare Savings Programs: Eligibility and Coverage (2019), available at ncoa.org/wp-content/uploads/medicare-savings-programs-coverage-and-eligibility.pdf.

³ POMS HI 00801.201.B.

SSA also determines eligibility for Medicare Part A and Part B and processes enrollments. SSA sets up deductions of Part B (and when applicable, Part A) premiums from an individual's monthly Social Security benefit; makes determinations of Part A and Part B late enrollment penalties; and collects Part A or Part B premium arrearages. If a state is paying Medicare premiums for Medicaid enrollees (in a process called "buy-in"), SSA collects those premiums directly from the state. SSA also determines eligibility for the Medicare Part D Low Income Subsidy (LIS or "Extra Help").

Social Security provides services to individuals through a network of local Social Security offices. While the local Social Security offices are how people generally come into contact with Social Security, a lot of case processing actually happens outside of the local offices. Six Program Service Centers operate as processing centers for Social Security, housing, and servicing the records of individuals who receive Social Security benefits.

The Centers for Medicare and Medicaid Services (CMS) is responsible for enrollment in Medicare Advantage (MA) plans and Prescription Drug Plans (PDPs). During available enrollment periods, people can enroll in or disenroll from MA plans or PDPs by calling 1-800-Medicare, through direct contact with plans, or through agents and brokers. CMS also assigns LIS beneficiaries to Part D plans if they do not pick their own plans. CMS collects Part A and Part B premiums from individuals whose Part B and/or Part A premiums are not taken automatically from their benefit. MA plans and PDPs are responsible for collecting plan premiums. Plans with CMS concurrence are responsible for determining and collecting Part D late enrollment penalties.

PRACTICE TIP

The Medicare program has six Regional Offices ("RO's")⁴ but they do not provide in-person consumer assistance. The agency's consumer assistance line, 1-800-Medicare, is the route for consumer contact with the agency about questions or concerns. Advocates, however, may find it helpful to contact their RO when trying to untangle Medicare eligibility and enrollment issues.

Other agencies also provide information upon which SSA and CMS rely for Medicare determinations. State Medicaid programs transmit Medicaid eligibility files (called "MMA files") to SSA and CMS, as well as Part B buy-in files. Those state files provide information on whether the state has enrolled an individual in a Medicare Savings Program (e.g., QMB, SLMB, or QI) to pay Medicare premiums and whether the individual has full Medicaid, which also triggers state Part B premium payment liability. Further, the state Medicaid files provide information needed to determine the correct level of subsidy for LIS (e.g. MMA files show institutional or HCBS status which qualifies a beneficiary for the zero co-pay level). The Department of Homeland Security provides information to SSA when immigration status determinations are required to establish Medicare eligibility.⁵

PRACTICE TIP

The first step in addressing an error in a client's Medicare eligibility is to figure out which agency is the source of the erroneous information. A beneficiary may receive a notice from a Medicare Advantage plan or from CMS about eligibility issues, but the problem may lie with SSA or a state Medicaid agency. Working with the responsible agency to correct a data error can get the fastest resolution to an issue.

⁴ For a list of RO's and contact information, see [cms.gov/About-CMS/Agency-Information/RegionalOffices/index.html](https://www.cms.gov/About-CMS/Agency-Information/RegionalOffices/index.html).

⁵ POMS GN 00303.800.A.3.

Keeping Medicare Active While Appealing an SSDI Termination

SSA periodically reviews whether someone who receives SSDI benefits continues to be disabled. If the agency concludes after the review that the person is no longer disabled, it will terminate benefits. If the person appeals within 10 days of receiving the letter terminating benefits, the person can choose to continue both their SSDI benefit and their Medicare benefit during the appeal.⁶ While the person will experience this process as happening at their local Social Security office, an important part of the process actually occurs at a Social Security Program Service Center (PSC), which is the place that actually houses and services the individual's record. Problems can arise when the person requests at their local Social Security office to have their SSDI and Medicare continue, the local office forwards that request to the PSC to process the request and reinstate the SSDI and Medicare benefits, and the PSC does not reinstate the benefits promptly.

While there are timelines for response when a local office makes a request to a PSC,⁷ we occasionally hear of situations where the PSC delays weeks and months in reinstating the benefits, particularly the Medicare benefit. The situation in these cases is often urgent, as the failure to reinstate the Medicare benefit means that the person cannot continue existing medical treatment, or the failure to reinstate the SSDI benefit means that the person cannot pay their rent.

PRACTICE TIP

Persistent advocacy is important in these situations. Advocacy could include elevating the issue to a supervisor at the local office and describing the hardships experienced by the person as a result of the delay, or reaching out to the office of the person's Congressional representative for assistance.

Dealing With Lags Related to Part B Premium Collection

State Medicaid programs pay Part B premiums for Medicare-eligible individuals with Medicaid, including for those in Medicare Savings Programs. When Medicaid eligibility starts or is terminated, those changes are reflected in "Part B buy-in files" sent by states to SSA. Based on the state buy-in files, SSA starts or stops withholding Part B premiums from Social Security benefit payments. When everything is working correctly, there is a built-in lag of two to three months between when SSA receives a report of a change in status and when withholding from the benefit is changed.⁸

CMS and SSA accept MMA and Part B buy-in files from the states as frequently as daily. Several states, however, choose to transmit one or both files less frequently. Less frequent data exchanges mean that if there is a problem, such as a transposed number or a misspelled name in a file, it can take longer to correct and add to lags in enrollments and payment changes.

A common scenario is when an individual in the QMB program fails to respond to a redetermination request from the state Medicaid program and is disenrolled by the state. In the following two to three months, the individual is no longer enrolled as a QMB, but SSA continues to charge the state for Part B premiums. When the process catches up, SSA returns the premiums to the state and charges the individual for those months. The individual receives a benefit payment with those months of Part B arrearages deducted, often creating a crisis because of the sudden drop in income. If the individual eventually is reinstated, there can be similar lags in starting state payments and stopping deductions from the individual's benefit. In those cases

⁶ See 20 C.F.R. § 404.1597a, POMS DI 12027.001 and DI 12027.008.

⁷ POMS GN 01070.440.

⁸ POMS HI 00815.039.B.

where the reinstatement is retroactive, the individual may eventually receive a refund, but the hardships during the months where premiums are deducted can be severe.

CASE EXAMPLE

Mary Jones has been a QMB for several years, but due to a change in income, she no longer qualifies for the program. The state disenrolls her as of February 1. However, SSA continues to charge the state for her February and March premiums. In April, the SSA systems catch up. SSA reimburses the state and deducts close to \$400 from Mary's Social Security benefit to cover the February and March premiums, as well as her April premium liability. She didn't understand that this would happen and hadn't saved anything from her February and March benefit. Mary is now scrambling to borrow from family, and incurs credit card debt so she can pay her rent and also afford food, utilities, and other expenses.

Advocates sometimes report more serious situations where recognition of a status change—either the start or stop of coverage—has been delayed for many more months, and in some cases, even more than a year. In these cases, there is likely a data exchange problem. Sometimes erroneous information is being transmitted from the state to SSA, or status changes are not being transmitted at all. A single beneficiary problem can sometimes reveal a broader systemic issue affecting many others.

PRACTICE TIP

Though there is little that can be done to impact routine two or three month lags with Part B premium payments, advocates can prepare their clients as much as possible so that they understand the changes to expect in their benefits and are better prepared for the significant changes in income.

Investigating more serious delays is challenging and may require inquiries of both SSA and the state Medicaid program. The CMS Regional Office may also be of assistance. SSA has established systems for handling of buy-in complaints and coordinating with CMS regional offices using internal form CMS-1957.⁹

Since systemic issues may be in play, non-legal advocates should consider alerting their local legal services program and enlisting their assistance to determine the source and breadth of the problem.

Part D Low-Income Subsidy Status and Social Security Overpayments

Sometimes low-income Medicare beneficiaries receive notices of overpayment of Social Security benefits with a requirement for repayment. Whether or not they decide to contest the claimed overpayment and/or seek a waiver, Medicare Part D Low Income Subsidy (LIS) beneficiaries facing an overpayment claim can request that the overpayment recovery rate be limited to \$10/month. LIS recipients simply need to make the request. They are not required to make any additional showing of financial hardship.¹⁰ The request can be as simple as a letter asking for a \$10 per month payment plan and stating that the person receives the Medicare Part D LIS.

PRACTICE TIP

SSA staff does not typically alert LIS recipients of the availability of the \$10 repayment option. The option is also not discussed in overpayment notices sent from SSA. Therefore, it is particularly important that advocates alert their clients to this avenue for relief.

⁹ POMS HI 00815.088 and POMS HI 00815.094.

¹⁰ POMS GN 02210.030.C.

Conclusion

Medicare advocates and Social Security advocates, particularly those working with low-income individuals, need to understand SSA involvement in Medicare eligibility and enrollment. Data transfer issues are behind many errors or delays, and persistent advocacy is often needed to get a resolution.

Additional Resources

- Citations to key regulations and guidance on the topic:
 - » 20 C.F.R. § 404.1597a
 - » [Social Security Administration Program Operations Manual System \(POMS\)](#)
 - POMS GN 01070.000 et seq.
 - POMS GN 02210.030.C
 - POMS DI 12027.000 et seq.
 - POMS HI 00815.000 et seq.
- Key federal agencies overseeing the subject matter:
 - » [Social Security Administration](#)
 - » [Centers for Medicare and Medicaid Services](#)
- National organizations providing additional resources:
 - » [Justice in Aging](#)
 - » [Medicare Rights Center](#)
 - » [National Council on Aging](#)

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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