

# Issues at the Intersection of Social Security and Medicare

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# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About 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 populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

# 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 enrolls Medicare beneficiaries and collects premiums. It coordinates with state Medicaid agencies when states pay premiums for low income individuals.

# Key Lessons Continued

- Data exchange and interactions between SSA and 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

# Understanding Social Security Benefits

- **Retirement and Survivors’**: Can start as early as 62 for retirement or 60 for survivors’. Also covers dependents. The worker must have 10 years of work credit for retirement benefits; for survivors’ benefits, the deceased worker may have fewer than 10 years of work credits.
- **Social Security Disability (SSDI)**: Requires a disabling condition. Work credit requirements vary with age. Also covers dependents.
- **Supplemental Security Income (SSI)**: For people with little or no income. Must have a disabling condition or be age 65 or older.

# Medicare Coverage for Social Security and SSI Beneficiaries

- **Retirement and survivors'**: can qualify for Medicare at age 65.
- **SSDI**: can qualify for Medicare before age 65, but must serve a 24 month waiting period.
  - Includes disabled widow(er) benefits starting at age 50, adult child whose disability began before age 22
  - **Note**: People with amyotrophic lateral sclerosis (ALS) have no waiting period.
- **SSI**: can qualify for Medicare at age 65.

# Some Individuals Only Receive Medicare Benefits

- **Delayed retirement benefits:** Eligible for Social Security retirement but choose not to start receiving those benefits until after age 65. Can still qualify for Medicare starting the month of their 65<sup>th</sup> birthday.
- **End Stage Renal Disease (ESRD):** Some people are eligible for Medicare based on ESRD but might not have simultaneous eligibility for SSDI benefits.

# Examples

- James applies for Social Security spousal benefits at age 62 and begins receiving monthly benefits. James will not be eligible for Medicare until age 65.
- Melissa became disabled at age 50 and applied for SSDI benefits. If approved, Medicare eligibility will begin 24 months after the date Melissa became disabled.
- Sharon, age 50, receives SSI based on disability. Sharon will qualify for Medicare when she turns 65.

# Which Agency Handles Which Process?

# Medicare Parts

- Part A: commonly known as “hospital insurance”
- Part B: commonly known as “medical insurance”
- Part C: a private version of Medicare--provides benefits through “Medicare Advantage Plans”
- Part D: prescription drug coverage

# SSA and CMS Both Play a Role in Administering Medicare

- 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
  - Collects premiums for Part B (and Part A when applicable) and coordinates with state Medicaid agencies when states pay premiums for low income individuals
  - Determines eligibility for Part D Low Income Subsidy (LIS)

# SSA and CMS Both Play a Role in Administering Medicare (Continued)

- Centers for Medicare and Medicaid Services (CMS)
  - Responsible for enrollment in Medicare Advantage (MA) plans and Prescription Drug Plans (PDP)
  - MA plans and PDPs collect plan premiums and determine and collect Part D late enrollment penalties
  - CMS assigns LIS beneficiaries to Part D plans if they do not pick their own plans

# State Medicaid Programs Interact with SSA and CMS

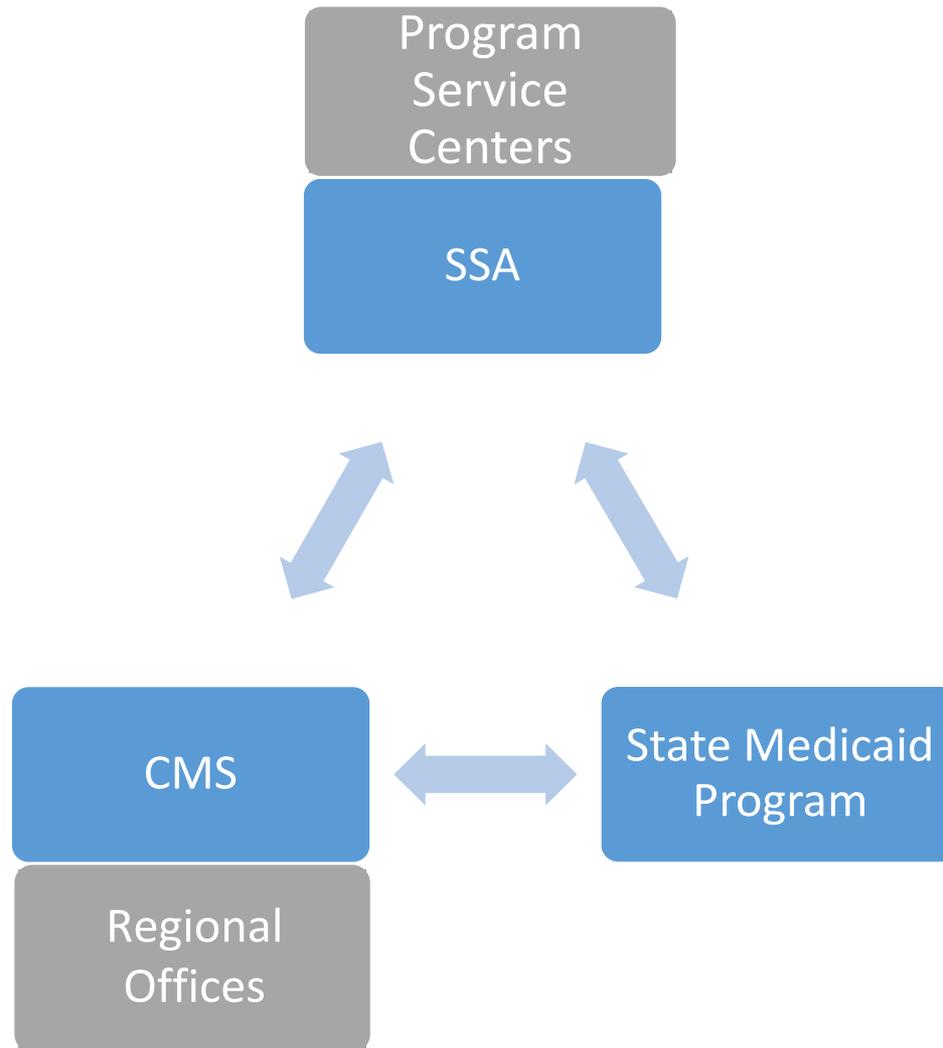
State Medicaid program enrolls and disenrolls individuals into Medicaid or Medicare Savings Programs (MSP), where the state pays an individual's Medicare Part B, and sometimes Part A, premiums.



The state transmits enrollment/disenrollment data to SSA and CMS

SSA returns premiums to the state for individuals disenrolled by the state, and collects those premiums from the individual's check. SSA stops deducting premiums from the checks of individuals newly enrolled or reinstated in MSP.

# Problems Can Occur Any Time Data is Exchanged



# Common Problems

# Benefit Continuation During an SSDI Appeal

- Melissa receives SSDI and undergoes a disability review by SSA. At the end of the review process, SSA decides that Melissa is no longer disabled. SSA mails a termination letter, stating that Melissa can continue receiving Medicare and SSDI if she appeals within 10 days.
- Melissa files an appeal at the SSA office within 10 days, requesting that her SSDI and Medicare continue. The following month, no SSDI benefit is received, and her doctor says that she no longer shows up in their system as receiving Medicare.

# What Happened?

- If a current SSDI beneficiary is found no longer disabled, the individual has the right to continue both SSDI and Medicare during the appeal, if they appeal within 10 days. 20 C.F.R. § 404.1597a
- Two distinct components that can be restarted: SSDI cash benefit and Medicare.
- Medicare update may need to happen at the Program Service Center, not the local SSA office.

# Practice Tips

- Follow up with the local office. Note any urgent or hardship issues.
- Check on status of follow up by the local office to the Program Service Center.
  - [Timelines for responding. POMS GN 01070.440](#)
- Reach out to the office of the person's Congressional representative for assistance.

# Lags Related to Part B Premium Collection

- State Medicaid programs pay Part B premiums for Medicare-eligible individuals with Medicaid. 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.

**Built-in lag of 2-3 months when everything is working correctly.**

# Example: Mary Jones

- Mary 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.
- SSA continues to charge the state for her February and March premiums.
- In April, 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.

# Example: Mary Jones (Continued)

- Mary didn't understand that this would happen and hadn't saved anything from her February and March benefit.
- Mary now is scrambling to borrow from family and incurs credit card debt so she can pay her rent and also afford food, utilities and other expenses.
- If Mary's is retroactively re-enrolled (e.g. because of state error in disenrollment), she will eventually get a refund.

# Practice Tips (1 of 3)

- Warn your client about the expected recoupment by SSA
- Urge your client to plan ahead
- Watch for a longer delay

# Longer Delays

- Many potential causes—often data transmission problem
- May signal systemic issues
- May require inquiries of both SSA and the state Medicaid program
  - SSA uses internal form CMS-1957 to handle buy-in complaints
- The CMS Regional Office may also be of assistance
- Congressional inquiry can help

# Practice Tips (2 of 3)

- Data issues are rarely one-offs
- Connect with your local legal services program if systemic issues may be in play
- Justice in Aging also is available to help
- Look at POMS HI 00815.088 and POMS HI 00815.094

**Be persistent!**

# Part D LIS and Social Security Overpayments

- A Medicare beneficiary who receives the Part D Low Income Subsidy (LIS or “Extra Help”) and who is assessed a Social Security overpayment can request that the overpayment recovery rate be limited to \$10/month. POMS GN 02210.030.C
- No additional showing of financial hardship is needed

# Part D LIS and Social Security Overpayments (Continued)

## Making the request

- No form is required
- A simple letter is adequate
  - Reference the overpayment notice
  - State that the individual receives LIS
  - Request a \$10/mo payment plan

# Practice Tips (3 of 3)

- If a client comes to you with a Social Security overpayment, check if they receive the LIS.
- Client can make the LIS request **in addition to** any appeal the overpayment or request waiver. Not an either/or choice.
- SSA overpayment notices don't mention the LIS option, and SSA staff does not typically raise it. Important for advocates to alert clients!

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