Legal Basics: Medicare Savings Programs

NATIONAL CENTER ON LAW & ELDER RIGHTS

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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 have focused our efforts on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

Key Lessons

1. Medicare is vital for older adults, but it comes at a cost. Medicare Savings Programs (MSPs) help low-income Medicare beneficiaries afford and access services.
2. There are four Medicare Savings Programs: the Qualified Medicare Beneficiary Program (QMB); the Specified Low-Income Medicare Beneficiary Program (SLMB); the Qualified Individual Program (QI); and the Qualified Disabled Working Individual Program (QDWI). While the programs help individuals pay for Medicare, they are administered and funded by the Medicaid program and eligibility and nomenclature may vary slightly state-to-state.
3. Each Medicare Savings Program provides financial assistance to Medicare beneficiaries to help pay for Medicare premiums, co-pays, and deductibles. The assistance available varies depending on the program and the corresponding financial need.
4. Each Medicare Savings Program has certain financial eligibility requirements, and individuals must have income and resources (assets) below a certain level to qualify.
5. Enrollment into three of the Medicare Savings Programs (QMB, SLMB, and QI) also qualifies the individual for "Extra Help," or the "Low-Income Subsidy" to help pay for Medicare Part D's prescription drug costs.
6. Legal services programs can play a vital role in screening individuals for MSP and connecting individuals to these programs that can help them pay for Medicare coverage.

Introduction

Rose breathed a deep sigh. As a low-income older adult on both Medicare and Medicaid, she has multiple chronic conditions, including diabetes, thyroid issues, and is on dialysis. She recently suffered a stroke, and now her doctors are telling her that she needs a bone scan. The bone scan is $3,500; money Rose does not have. She considers cutting back on necessary medications to save some money and wonders how she will pay for her rent.

Rose should not be forced to decide between necessities like her rent and her critically important bone scan. Fortunately, MSPs offer low-income Medicare beneficiaries some help. MSPs help Medicare beneficiaries with their Medicare premiums, deductibles, and co-pays.

Rose is not alone. A number of low-income Medicare beneficiaries need help to pay for healthcare costs. MSPs cover over 7 million people with Medicare, including 1.7 million older adults who are too poor to afford

Medicare but do not qualify for full Medicaid.[1]

Why Medicare Savings Programs Are Necessary

Medicare is vital for older adults and helps them with hospital visits, routine check-ups, specialty care, prescription drugs, and other services, but it comes at a cost. The Part B benefit (outpatient care) has a monthly premium of $134 per month. Meanwhile, Part A (inpatient care) has a $1,316 deductible and Part B a $183 deductible. And co-payments are typically 20% for most Part B-covered services, and prescription drugs carry their own premiums and co-pays. These cost-sharing amounts do not include the out-of-pocket amounts older adults spend on services Medicare does not cover, like dental and vision. In 2011, the average Medicare beneficiary spent about $5,368 out of pocket on health care expenses.[2] With these costs in mind, consider that the median yearly income of Medicare beneficiaries is only $26,200.[3] The income is even less for certain older adults of color. For example, the median income for African Americans is $16,150.[4] These amounts tend to decrease as Medicare beneficiaries age. Over half of Medicare beneficiaries 85 or older have incomes less than $18,850 and savings less than $30,700.[5]

As senior poverty is often linked to race, MSPs may serve as a way to combat health disparities among seniors of color. In addition to helping poorer African Americans, for example, Medicaid also can help low-income older American Inidan and Alaskan Natives. Specifically, one study found that almost one in four American Indian and Alaskan Native older adults qualify for either MSPs or full Medicaid, a significantly higher rate than the total U.S. population 65 years old or older.[6]

MSPs are a critical program for low-income Medicare beneficiaries, including older adults of color, to access services.

The Different Medicare Savings Programs

There are four different Medicare Savings Programs that exist to help bridge the gap between what Medicare pays for and what low-income Medicare beneficiaries can afford. While MSPs help *Medicare* beneficiaries, they are actually a part of the *Medicaid* program. Because they are administered by Medicaid, they are administered at the state level. The different programs are:

- The Qualified Medicare Beneficiary Program (QMB);
- The Specified Low-Income Medicare Beneficiary Program (SLMB);
- The Qualified Individual Program (QI); and
- The Qualified Disabled Working Individual Program (QDWI).

Each of these programs aim to help individuals pay for their Medicare coverage. The programs differ in two key ways: 1) they have different financial eligibility requirements and 2) they offer different financial assistance.

1 Medicare Payment Advisory Comm.(MedPAC), Data Book: Beneficiaries Dually Eligible for Medicare and Medicaid, available at macpac.gov/wp-content/uploads/2017/01/Jan17_MedPAC_MACPAC_DualsDataBook.pdf.

2 Kaiser Family Foundation, An Overview of Medicare, available at kff.org/medicare/issue-brief/an-overview-of-medicare.

3 Kaiser Family Foundation, Report on Income and Assets of Medicare Beneficiaries, 2016-2035, available at kff.org/medicare/issuebrief/income-and-assets-of-medicare-beneficiaries-2014-2030.

4 National Committee to Preserve Social Security & Medicare, “Medicare and Medicaid Are Important to African Americans,” available at ncpssm.org/Medicare/AfricanAmericansMedicare.

5 n. 2.

6 Kaiser Family Foundation, Report on The Role of Medicare and the Indian Health Service for American Indians and Alaska Natives: Health, Access and Coverage, available at kff.org/report-section/the-role-of-medicare-and-the-indian-health-service-for-american-indians-and-alaska-natives-health-access-and-coverage-report.

Financial Eligibility for MSPs

Any individual receiving assistance from an MSP must already be eligible for Medicare Part A.[7] Each program has different *income* and *resource (asset)* limits. On income, the QMB program has an income limit of 100% federal poverty level (FPL), SLMB 120%, and QI 135%. QDWI individuals cannot have incomes exceeding 200% FPL. These limits, however, may vary from state-to-state, as federal law sets income and assets requirements, but states have the option to set more generous levels (more below).

Resource (also known as asset) limits for QMB, SLMB, and QI are the same. In 2017, the individual cannot have more than $7,390 in countable resources if single and no more than $11,090 if a couple. QDWI is $4,000 if single and $6,000 if married. Countable resources include money in a checking or savings account, stocks, and bonds. Certain resources are never counted in this sum, including the individual's primary house, car, household goods and wedding/engagement rings, burial spaces, burial funds (up to $1,500), and life insurance with a cash value less than $1,500.

In addition to income and resource limits, QDWI individuals have other eligibility restrictions. QDWI individuals must be under 65 and disabled and not on Medicaid. Because they are returning to work, they no longer qualify for free Medicare Part A.

2017 Federally Required Minimums for Medicare Savings Programs

(States may allow higher levels)

Program	% of FPL	Income if Single	Income if Married
QMB	Up to 100%	$1,025/month	$1,375/month
SLMB	100–120%	$1,226/month	$1,644/month
QI	120–135%	$1,377/month	$1,847/month
QDWI	Up to 200%	$4,000/month	$6,000/month

Countable Resources: $7,390 if single and $11,090 if a couple

Note: Income and asset limits change each year and may vary state-to-state.

PRACTICE TIP

The FPL and MSP resource limits change from year to year. If you are working with an older adult whose income and resources are slightly higher, you should still encourage them to apply. In addition, since MSP eligibility may be re-screened during the annual Medicaid re-determination process, advocates should work with their clients to ensure that any changes in income or resources are properly reported.

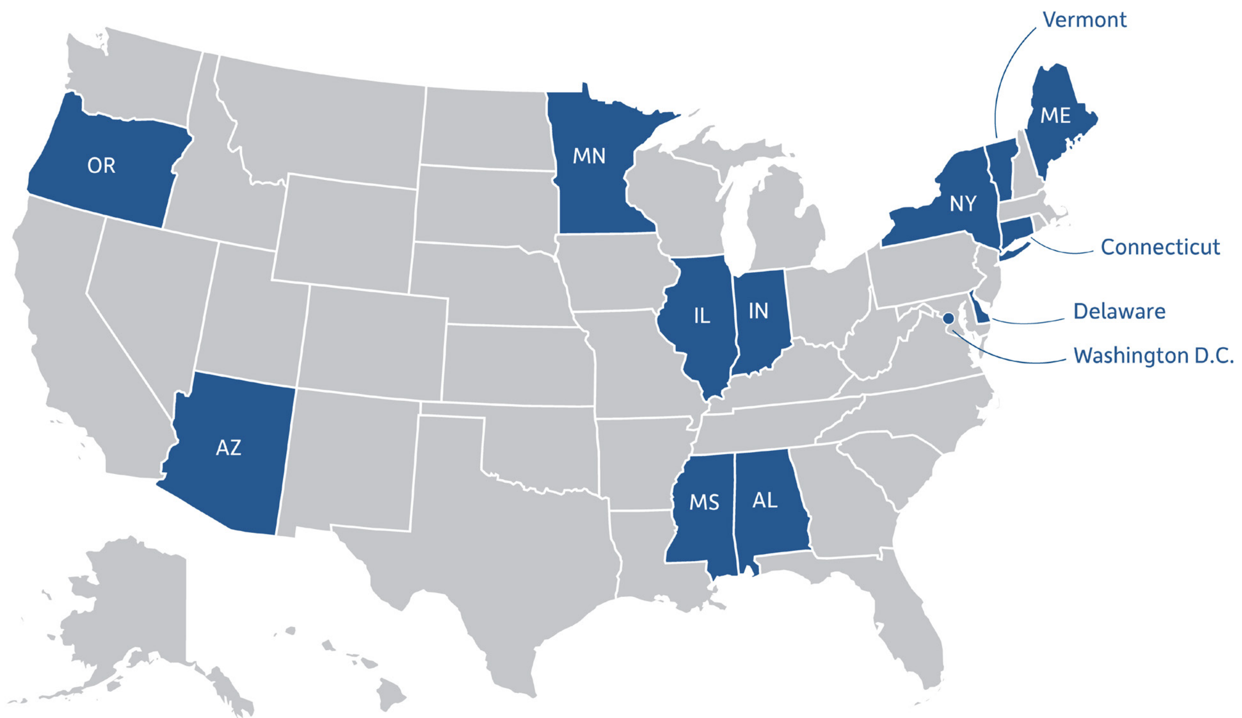
13 states have raised income and or assets levels, allowing more low-income older adults to qualify. They include Alabama, Arizona, Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Maine, Minnesota, Mississippi, New York, Oregon, and Vermont.[8] [9]

7 For more information on Medicare eligibility, see NCLER Legal Basics: Medicare Parts A, B, and C, available at: ncler.acl.gov/pdf/Legal-Basics-Medicare-Parts-A-B-and-C.pdf.

8 A chart containing qualification levels by state for 2017 is available at the National Council on Aging's website at ncoa.org/resources/medicare-savings-programs-eligibility-and-coverage-chart.

9 Connecticut is on track to revert back to the federal income limits under a two-year bi-partisan state budget signed by Governor Malloy, effective January 1, 2018. Ana Radelat, The CT Mirror, "CT budget cuts program that helps low-income and disabled

States with Asset and/or Income Limits Above Federal Minimums



MSP Financial Assistance

The level of assistance provided with each MSP program correlates to the financial need of the beneficiary. For example, the QMB program is targeted to the lowest income individuals (100% FPL) and therefore offers the most comprehensive benefit. As a QMB enrollee, Part A and B premiums are paid for, as well as all Medicare deductibles, co-pays, and co-insurance. In addition, Medicare providers cannot charge QMBs for any amounts beyond what Medicare and Medicaid pay; QMBs are protected from improper billing under federal law.[10] For many low-income seniors who have multiple chronic conditions, like Rose, the QMB program protects them from being liable for hundreds of dollars of co-insurance each month that would otherwise be impossible to pay.

Next, the SLMB and QI programs both cover Part B premiums. However, unlike QMB, they do not include Medicare co-payments or deductibles. Because of this financial assistance, SLMB and QI individuals have about an additional $130 to pay for rent, food, and utilities that otherwise would have been taken by Social Security to pay for Part B. QDWI individuals receive help paying for Part A premiums.

Medicare Savings Programs and Corresponding Financial Assistance

Medicare Savings Program	Financial Assistance
QMB	Medicare Part A and B premiums, deductibles, and co-payments
SLMB	Medicare Part B premiums
QI	Medicare Part B premiums
QDWI	Medicare Part A premiums

Medicare patients," (Nov. 2, 2017), available at ctmirror.org/2017/11/02/ct-budget-cuts-program-that-helps-low-income-and-disabled-medicare-patients. See also Public Act 17-2, Section 50.

10 42 U.S.C. sec. 1396a(n)(3)(B). Federal regulations apply this protection to Medicare Advantage enrollees. 42 C.F.R. sec. 422.504(g)(1)(iii).

In addition to the program names, Medicare beneficiaries enrolled in a Medicare Savings Program other than QI and QDWI may be referred to as "plus" or "only." The "plus" (for example, QMB-plus) indicates that the individual has the full-scope Medicaid benefit, in addition to the MSP benefit, while individuals who are "only" are ineligible for full-scope Medicaid. For instance, Rose may be a QMB-plus since she has full-scope Medicaid. Whether an individual is a full-scope Medicaid recipient, and therefore a plus or an only, will depend on state-specific Medicaid eligibility criteria. Also, different states may stray from the federal naming conventions.[11]

PRACTICE TIP

Enrollment into any of these three automatically qualify the Medicare beneficiary to receive "Extra Help" for Medicare prescription drug coverage. "Extra Help," otherwise known as the Low-Income Subsidy (LIS), is a federal program that helps low-income individuals pay for some or most prescription drug costs.[12]

A Closer Look at QMB Improper Billing

Despite federal legal protections prohibiting Medicare providers from charging QMBs Medicare cost-sharing, the practice known as improper billing is unfortunately "relatively commonplace."[13] Note that the legal protections protect both QMB-onlys and QMB-pluses, and whether the QMB is enrolled in managed care or in Original/fee-for-service Medicare.[14] Unfortunately, many QMBs, even those who are familiar with the legal protections, pay the bills because they need the services. Others are afraid of jeopardizing their relationships with their providers. Those who do not pay often face the wrath of collection companies, which may lead to credit problems. Additional complications exist because not all QMBs know they are enrolled in the program, making it even more difficult to assert the protection.

However, recent changes at 1-800-MEDICARE enable representatives to properly identify QMBs and help escalate cases where providers have improperly billed, such that, when appropriate, issue a compliance letter to the provider.[15] Before these changes, states varied as to whether and how they included a QMB designation on their Medicaid cards.[16] Additional systems changes are underway that should help educate providers and QMBs about the legal protection and help reduce the prevalence of improper billing. Aging professionals working with older adults who have been improperly billed should refer to Justice in Aging's improper billing toolkit and contact Justice in Aging for technical assistance and case consultations.[17]

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11 For a list of states with different naming conventions, see National Council on Aging, Center for Benefits Access, Medicare Savings Programs (MSPs): Eligibility and Coverage (2017), p. 4, available at ncoa.org/wp-content/uploads/medicare-savings-programs-coverage-and-eligibility.pdf.

12 More on the Extra Help program is available at medicare.gov/your-medicare-costs/help-paying-costs/save-on-drug-costs/save-on-drug-costs.html. Note that individuals who apply for Extra Help are automatically screened for MSP eligibility. Although the LIS application is handled by the Social Security Administration, SSA transits the relevant information to the appropriate state Medicaid agency to screen for MSP eligibility. SSA POMS HI 815.025, SSA Outreach to Low-Income Medicare Beneficiaries – Extra Help and Medicare Savings Programs; 42 U.S.C. sec. 1320b-14.

13 Centers for Medicare & Medicaid Services, Access to Care Issues Among Qualified Medicare Beneficiaries (QMB), July 2015, available at cms.gov/Medicare-Medicaid-Coordination/Medicare-and-Medicaid-Coordination/Medicare-Medicaid-Coordination-Office/Downloads/Access_to_Care_Issues_Among_Qualified_Medicare_Beneficiaries.pdf.

14 Professionals working with older adults who have been improperly billed should check their local jurisdiction to see if non-federal improper billing rules apply. They can start with Justice in Aging's Appendix of State-specific Improper Billing Authorities, available at justiceinaging.org/wp-content/uploads/2017/02/Appendix-State-specific-Improper-Billing-Authorities.pdf.

15 CMS Manual System, Pub 100-20 One Time Notification, Transmittal 1747 (November 4, 2016), available at cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R1747OTN.pdf.

16 For more on QMB identification practices, see Justice in Aging, QMB Identification Practices: A Survey of State Advocates, March 2017, available at justiceinaging.org/wp-content/uploads/2017/03/QMB-Identification-Practices_A-Survey-of-State-Advocates.pdf.

17 The Justice in Aging Improper Billing Toolkit is available at justiceinaging.org/our-work/healthcare/dual-eligibles-california-and-federal/improper-billing.

Enrolling into Medicare Savings Programs

As MSPs are a form of Medicaid benefit, state Medicaid agencies have a federal affirmative obligation to screen for eligibility for all Medicaid programs, including MSPs, when an individual initially applies for Medicaid and during the re-determination process.[18] Therefore, an application for Medicaid includes screening for MSP eligibility, so some individuals may be automatically enrolled into a Medicare Savings Program based on this obligation after applying for Medicaid.

While some individuals may be automatically enrolled on the basis of their Medicaid application or re-determination, individuals can also affirmatively apply for enrollment into a MSP. Since MSPs are administered by state Medicaid programs, enrollment is handled by the state Medicaid agency. Each state should have its own application form, and most accept applications via mail or in person at the local Medicaid office. In most states, enrollment for QMB will be effective the month after the individual is determined eligible. For SLMB and QI, benefits are retroactive for three months from the date of application, assuming the individual meets eligibility in those months.

The Social Security Administration (SSA) is also required to notify low-income Medicare beneficiaries who may be eligible for MSPs. Annually, beginning in May through June, SSA mails outreach letters to potential MSP eligible Medicare beneficiaries, except prospective-QDWI letters are mailed at the end of November.[19]

Despite the affirmative state obligation to screen for Medicaid, the ability for individuals to apply directly with Medicaid for MSP enrollment, and outreach from SSA, under-enrollment into MSPs continues to be a problem. Studies vary, but at least one indicates that as few as one-third of individuals eligible for QMB are enrolled, and 13 percent of SLMB eligible individuals are enrolled.[20] Others put the combined participation rate of QMB and SLMB to over 60 percent.[21] A recent study put the figure of eligible QMB participation around 53 percent, SLMBs around 33 percent, and QI around 15 percent.[22] Trends exist within different populations as well. For instance, eligible individuals who are black or Latino are less likely to enroll in SLMB.[23] Enrollment rates vary by state, but regardless, the studies reach a common finding that under-enrollment in MSPs continues and therefore may have issues accessing care because they cannot afford premiums and cost sharing under Medicare.[24]

PRACTICE TIP

Applications for enrollment into MSPs may be particularly helpful for individuals who are linked to Medicaid on the basis of their Social Supplemental Income (SSI) benefit. For these individuals, state Medicaid agencies

18 42 C.F.R. sec. 435.911(c)(2) ("[T]he agency must collect such additional information…to determine whether such individual is eligible for Medicaid on any basis other than the applicable modified adjusted gross income standard, and furnish Medicaid on such basis."). In the re-determination context, this obligation is clearest in 42 C.F.R. sec. 435.916(f)(1) ("Prior to making a determination of ineligibility, the agency must consider all bases of eligibility…"). *See also Crippen v. Kheder*, 741 F.2d 102 (6th Cir. 1984) (interpreting 42 C.F.R. sec. 435.930).

19 SSA POMS HI 815.025, "SSA Outreach to Low-Income Medicare Beneficiaries – Extra Help and Medicare Savings Programs." Sample outreach letters are available at secure.ssa.gov/poms.nsf/lnx/0600815025.

20 Congressional Budget Office. 2004. "A Detailed Description of CBO's Cost Estimate for the Medicare Prescription Drug Benefit." Washington, D.C.: Congressional Budget Office.

21 Haber, Susan G., Walter Adamache, Edith G. Walsh, Sonja Hoover, Anupa Bir, Cheryl Caswell, Henry Simpon, and Kevin Smith. 2003. "Evaluation of Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB) Programs." Waltham, MA: RTI International.

22 MACPAC, Medicare Savings Program Enrollees and Eligible Non-Enrollees, available at macpac.gov/wp-content/uploads/2017/08/MSP-Enrollees-and-Eligible-Non-Enrollees.pdf.

23 MACPAC, Medicare Savings Programs: New Estimates Continue to Show Many Eligible Individuals Not Enrolled, p. 9, available at macpac.gov/wp-content/uploads/2017/08/Medicare-Savings-Programs-New-Estimates-Continue-to-Show-Many-Eligible-Individuals-Not-Enrolled.pdf.

24 Id. at Table 3.

may be less likely to screen for MSP eligibility because the Social Security Administration owes their files, not Medicaid. Therefore, practitioners should take care to ensure all Medicare beneficiaries who meet the MSP eligibility criteria, especially SSI recipients, apply for MSP with the State Medicaid agency.

PRACTICE TIP

State Health Insurance Assistance Programs (SHIPs) are funded to educate Medicare beneficiaries about MSPs and help them apply when appropriate. Legal services and other aging professionals should consider partnering with SHIPs on efforts to educate consumers about MSPs and increase enrollment.

Conclusion

Medicare Savings Programs under Medicaid are critical for low-income Medicare beneficiaries, allowing them to access health services and eliminating the barriers that Medicare cost-sharing poses. Among the different MSPs, QMB offers the strongest protections, but many QMBs are billed for Medicare services despite legal protections to the contrary. Overall participation in MSPs remains low, so advocates and aging services professionals should work to ensure as many older adults who are eligible are enrolled in and benefit from the Medicare Savings Programs.

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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