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Medicare Coverage

The following is a very general outline of the federally-funded Medicare health insurance program, designed for individuals who are 65 or older, or who are under 65 and receive Social Security disability benefits, or certain individuals with End Stage Renal Disease ("ESRD"). More detailed information is available in Medicare publications and on the Social Security Administration and Medicare websites. Because of the complexity of the Medicare program, questions about specific situations should always be directed to Medicare.

Medicare's Four-Part Coverage System

Medicare coverage is similar to major medical coverage provided under many employer plans. It covers a wide range of medical services. Medicare generally does not cover dental or vision services, with very limited exceptions such as a pair of glasses (or contact lenses) following cataract surgery. The following is a short description of the types of medical services covered under each of Medicare's four parts. For more detailed information, see the Medicare publication *"Medicare and You 2018"* (linked below).

Part A (Hospital):

Medicare Part A requires deductibles and copayments, such as a $1,340 deductible (2018 amount) for an inpatient hospital stay. Part A covers:

- **Hospital stays:** Semi-private room, meals, general nursing, and other hospital services and supplies. Includes care in critical access hospitals and inpatient rehabilitation facilities.
- **Skilled nursing facility care:** Limited coverage of semi-private room, meals, skilled nursing and rehabilitation services, and other services and supplies, following a hospital stay.
- **Home health care services:** Can include part-time or intermittent skilled nursing care, and physical therapy, speech-language pathology, and occupational therapy.
- **Hospice care:** Includes drugs for pain relief, and medical and support services.

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Part B (Medical):

Medicare Part B uses a calendar year deductible ($183 in 2018) and generally reimburses 80% of covered expenses after the deductible has been satisfied. Part B covers:

- Medical and other services: Doctors' services, outpatient medical and surgical services and supplies, diagnostic tests, durable medical equipment, and more.
- Clinical laboratory services: Blood tests, urinalysis, and some screening tests.
- Home health care services: Can include part-time or intermittent skilled nursing care and physical therapy, speech-language pathology, and occupational therapy.
- Outpatient hospital services: Hospital services and supplies you get as a hospital outpatient.
- Preventive **services:** Includes specified preventive services with no cost sharing.

Part C ("Medicare Advantage"):

Medicare Part A and Part B are often referred to as "Original Medicare." In contrast, there is also Medicare Part C, known as "Medicare Advantage." Medicare Advantage is a way to get Medicare Part A and Part B coverage through private companies that are approved by Medicare. These plans may also provide Medicare prescription drug coverage. Medicare Advantage plans are managed care plans such as HMOs and PPOs.

A few items to note regarding Medicare Advantage plans:

- Individuals who are enrolled in Medicare on the basis of End Stage Renal Disease ("ESRD") are generally not able to enroll in a Medicare Advantage plan.
- Individuals who are enrolled in a Medicare Advantage plan who want prescription drug (Part D) coverage must enroll in a Medicare Advantage plan that includes coverage for prescription drugs; they are not permitted to enroll in a stand-alone prescription drug program (see Part D below).
- Medicare rules prohibit selling a Medigap policy to an individual enrolled in a Medicare Advantage plan. (A Medigap policy pays for cost-sharing such as deductibles, copays and coinsurance under Original Medicare – see "Medicare Supplement Plans" below).

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Part D (Prescription Drug):

Medicare Part D covers outpatient prescription drugs. Medicare prescription drug coverage is provided either by a Medicare Prescription Drug Plan ("PDP") or through a Medicare Advantage plan that offers drug coverage. PDPs are drug plans are run by private companies that contract with Medicare. These plans cover a variety of brand-name and generic prescription drugs and must offer coverage that is actuarially equal to or better than Medicare's "standard plan" prescription drug coverage. PDP plans may also add additional benefits. The Medicare "standard plan" uses a calendar year deductible and percentage coinsurance. However, many PDP plans have lower or even no deductible and use flat dollar copayments rather than percentage coinsurance for some or all types of prescription drugs. For more detailed information, see Medicare's publication *"Your Guide to Medicare Prescription Drug Coverage"* (linked below).

Eligibility

Most individuals become eligible for Medicare based on age and Social Security or Railroad Retirement Board covered employment. Generally, these individuals (or their spouses) have at least 40 quarters (that is, 10 years) of covered employment under the Social Security or Railroad Retirement systems. Individuals who are eligible to receive Social Security retirement benefits, survivor benefits, or Railroad Retirement benefits will become eligible for Medicare when they reach age 65. Spouses of individuals who have sufficient quarters of coverage under either the Social Security or Railroad Retirement system become eligible when they reach age 65.

Individuals under age 65 who are disabled and receiving monthly Social Security or Railroad Retirement Board disability benefits become eligible for Medicare after they have received 24 months of Social Security or Railroad Retirement disability benefits (first month of receipt of Social Security Disability benefits for individuals who have Amyotrophic Lateral Sclerosis ("ALS"), also known as Lou Gehrig's disease).

Individuals who have sufficient covered employment under the Social Security program who have End-Stage Renal Disease ("ESRD") that requires dialysis or a kidney transplant, may also be eligible for Medicare. Special rules apply to Medicare enrollment based on ESRD. Individuals with ESRD should be advised to contact Medicare for information.

Some individuals who attain age 65 but do not have sufficient quarters of coverage (i.e., enough months of employment under the Social Security or Railroad Retirement systems) may still be able to enroll in Medicare but will not be eligible to enroll in Part A with no premium. They will be required to pay a premium for Part A (in addition to

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premiums payable under Part B, Medicare Advantage and Part D). More detailed information is available on the Medicare website.

Enrollment in Medicare

General Application Process:

In many situations, individuals must apply for Medicare as follows:

- Individuals who reach age 65 (and are not receiving monthly retirement, survivor or disability benefits) must make an application to enroll in any part of Medicare.
- Individuals who are eligible based on ESRD or ALS must also make an application.

Medicare has three enrollment periods for individuals not already enrolled in one or more parts of Medicare: (1) initial enrollment, (2) general enrollment, and (3) special enrollment. The initial enrollment period for individuals eligible for Medicare based on age is a seven-month period that includes the month in which the individual reaches age 65, three months before that month and three months after that month. The effective date of coverage depends on when the individual completes the Medicare application process. The general enrollment period for Part A and Part B begins on January 1 and ends on March 31 each year.

A special enrollment period is available to individuals who delayed enrolling in Medicare because they are covered under an employer's medical plan where their coverage is based on current enrollment status (that is, not COBRA or retiree coverage) and the employer is primary payer under the Medicare Secondary Payer law. These individuals will have a special enrollment period of up to eight months following the end of their coverage that is based on current employment. Note: COBRA coverage is not based on current employment. There is no special enrollment right under Medicare when COBRA coverage ends. An individual who delays Medicare until COBRA ends will be a late enrollee under Medicare and will be limited to enrolling during the general enrollment period. Late enrollees will generally be subject to penalties (see "Medicare Premiums" below).

There are differences in the enrollment rules for Medicare Part C and Part D.

Automatic Enrollment:

For some individuals, enrollment in Medicare Part A happens automatically:

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- Individuals receiving monthly Social Security or Railroad retirement or survivor benefits are automatically enrolled in Part A at age 65.

- Individuals who are receiving monthly Social Security or Railroad Retirement disability benefits are automatically enrolled in Part A after they have received 24 months of disability benefits.

These individuals will automatically be enrolled in Part B and will be given instructions on what to do if the individual wants to keep or to drop Part B coverage. Individuals who want to enroll in Medicare Part D (drug coverage) or a Medicare Advantage plan (Medicare Part C) plan will need to take steps to enroll in either Medicare Part C or Part D.

Application for Medicare Prescription Drug Plan

Individuals must be enrolled in either Part A or Part B in order to be eligible to enroll in Part D. Individuals who already have "creditable" prescription drug coverage – that is, coverage that is equal to or better than Medicare's standard drug plan – may delay enrollment as long they maintain such coverage. For this purpose only, the drug coverage does not have to be based on current employment status. For example, a retiree with creditable coverage under an employer's retiree medical plan can delay enrollment in Part D as long as the individual maintains his or her retiree coverage. Individuals who do not have creditable coverage, or who lose creditable coverage, must enroll when first eligible (or when creditable coverage is lost, if later) in order to avoid a late enrollment penalty and be restricted to enrollment during the Part D annual enrollment period. The individual will have 63 days after creditable drug coverage ends (or after the drug coverage stops being creditable) in which to enroll in Part D without being subject to the late enrollee penalty (see "Medicare Premiums" below) or a delay.

Election Changes:

Medicare also has an annual election period during which individuals already enrolled in Medicare may change their elections and may add prescription drug coverage. For example, individuals may change from original Medicare coverage to a Medicare Advantage program or add Part D prescription drug coverage. The annual election period runs from October 15 through December 7 each year with coverage beginning the following January 1.

Medicare's enrollment rules are detailed and complex. See Medicare's publications *"Enrolling in Medicare Part A and Part B"* and *"Understanding Medicare Parts C and D Enrollment Periods" for more detailed information. See links below.*

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Individuals who are both eligible and enrolled in any part of Medicare are "entitled" to Medicare. Entitlement to Medicare is not the same as eligibility for Medicare and is an important term. For example, entitlement to Medicare prevents an individual from contributing to a health savings account (HSA); eligibility alone does not make the individual ineligible to contribute to an HSA. Entitlement also affects an individual's ability to make a cafeteria plan election change and his or her COBRA rights.

Medicare Premiums

Individuals who are receiving Social Security retirement, survivor or disability benefits generally receive Part A coverage with no premium payment. Some individuals who do not have sufficient quarters of covered Social Security (or Railroad Retirement) employment may be able to enroll in Medicare Part A, but will be required to pay a monthly premium. However, monthly premiums must be paid for coverage under Part B and Part D, with higher premiums required for individuals with income above certain thresholds. Medicare Advantage plans usually, but not always, require a monthly premium. Any monthly premium required by a Medicare Advantage plan is in addition to the Part B premium.

Individuals who do not enroll during their initial enrollment period or a special enrollment period will also be subject to a late enrollment penalty under Parts B and D that is added to their premium. The late enrollment penalty under Part B is 10% for each 12-month period the individual was eligible but did not enroll. The late enrollment penalty under Part D is determined based on a national average drug plan premium (the actual amount is set by Medicare each year) and is calculated as at least 1% per month times the number of months the individual did not have Part D or creditable coverage.

Medicare Supplement Plans (“Medigap”)

Although Original Medicare coverage is comprehensive, it does include significant cost-sharing amounts. For example, under Part A an individual who is hospitalized must pay an initial $1,340 deductible (2018 amount) plus $335 per day for days 61 through 90 during a “spell of illness” (a higher per day copayment applies after 90 days). Under Part B, individuals must pay the deductible ($183 per year in 2018) plus 20% coinsurance for Medicare covered expenses. Unlike most employer-sponsored major medical plans, there is no dollar maximum on Medicare Part B’s 20% coinsurance. As a result, individuals who are enrolled in Medicare Parts A and B may want to purchase Medicare Supplement insurance – usually called Medigap – in order to be reimbursed for some of Medicare’s cost-sharing amounts, that is, the “gaps” in Medicare.

The benefits under Medigap policies are determined based on plan designs that were created by Congress. Medigap insurance plans are only available to individuals enrolled

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in both Medicare Parts A and B. Medicare rules don't permit individuals to have coverage under both a Medicare Advantage plan and a Medigap policy. (Individuals enrolled in a Medicare Advantage plan generally don't need Medigap insurance since many, if not most, Medicare Advantage plans include a calendar year out-of-pocket maximum.) Medigap insurance policies are written by private insurance companies and must comply with Medicare's requirements. Individuals enrolled in Medicare based on age may enroll in any available Medigap plan on a guaranteed issue basis if they enroll within 6 months after they first enroll in Medicare Part B. (Just as with Medicare, the timing of enrollment matters.) Guaranteed issue coverage may also be available under other very limited circumstances. Insurance companies are permitted to use medical underwriting, refuse to issue policies, and/or charge higher rates for individuals who do not have a guaranteed issue right at the time they enroll. A Medigap policy may also contain a pre-existing condition limitation of up to 6 months that can be reduced or avoided if the individual has certain prior coverage such as coverage under an employer's group medical plan.

Individuals enrolled in Medicare Advantage plans, as well individuals under age 65 who are enrolled in disability-based or ESRD-based Medicare, may be unable to purchase Medigap insurance.

Individuals in Medigap plans pay the private insurance company a monthly premium for the coverage, in addition to the monthly Part B premium paid to Medicare. Rates for Medigap coverage are determined by the insurance company underwriting the individual Medigap policies.

For more detailed information about Medigap insurance see the Medicare publication *"Choosing a Medigap Policy 2017"* linked below.

Additional Information

GBS Internal Webinar – A Review of Medicare, Medicaid, CHIP and the Marketplace – April 2015

GBS recorded a 50-minute webinar that presents a high level overview of the basics for Medicare, Medicaid, CHIP and the Marketplace.

- Recording – http://ajg.adobeconnect.com/p8sl68kcqjk/
- Presentation slides – http://ajg.adobeconnect.com/p9n2mgzsdpg/

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Medicare Publications

- Welcome to Medicare – https://www.medicare.gov/Pubs/pdf/11095-Welcome-to-Medicare.pdf
- Medicare and You 2018 – https://www.medicare.gov/pubs/pdf/10050-Medicare-and-You.pdf
- Enrolling in Medicare Part A and Part B –https://www.medicare.gov/Pubs/pdf/11036-Enrolling-Medicare-Part-A-Part-B.pdf
- Understanding Medicare Parts C and D Enrollment Periods – https://www.medicare.gov/Pubs/pdf/11219-Understanding-Medicare-Part-C-D.pdf
- Your Guide to Medicare Prescription Drug Coverage – https://www.medicare.gov/Pubs/pdf/11109-Your-Guide-to-Medicare-Prescrip-Drug-Cov.pdf
- Choosing a Medigap Policy 2017 – https://www.medicare.gov/Pubs/pdf/02110-Medicare-Medigap.guide.pdf
- Information for individuals in same-sex marriages – http://www.medicare.gov/sign-up-change-plans/same-sex-marriage.html
- Your Guide to Medicare's Preventive Services – https://www.medicare.gov/Pubs/pdf/10110.pdf
- Medicare and Other Health Plans – Guide to Who Pays First – https://www.medicare.gov/Pubs/pdf/02179.pdf
- Employer and Union Outreach Page on CMS: https://www.cms.gov/Outreach-and-Education/Find-Your-Provider-Type/Employers-and-Unions/Employer-community.html
- Medicare Coverage of Kidney Dialysis & Kidney Transplant Services – https://www.medicare.gov/Pubs/pdf/10128-Medicare-Coverage-ESRD.pdf

Social Security Administration Publication

- Social Security Retirement Benefits – http://www.ssa.gov/pubs/EN-05-10035.pdf

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The intent of this analysis is to provide general information regarding the provisions of current federal laws and regulation. It does not necessarily fully address all your organization's specific issues. It should not be construed as, nor is it intended to provide, legal advice. Your organization's general counsel or an attorney who specializes in this practice area should address questions regarding specific issues.