Legal Basics:
Medicare Parts A, B, & C

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

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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.

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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 Services Capacity Building. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

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Key Lessons

- Medicare is a federal health program
- Medicare has four parts: A, B, C, & D
- Eligibility is generally based on age, disability, and work history
- There are programs to help pay for Medicare costs
- Enrollment timelines are important for avoiding late enrollment penalties

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Road Map

- Medicare Overview
- Enrollment and Costs
- Part A, B, C
- Eligibility
- Programs to Help Pay for Costs
- Appeals
- Other Need-to-Know
- Resources

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Medicare Overview

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Medicare Overview

- Medicare is a federal health insurance program that is a primary source of coverage for adults 65 and over as well as certain individuals with disabilities
- With one in eight enrolled in the United States, Medicare is a key part of the health care system.
- Medicare is not means-tested
- Medicare has costs in the form of premiums and cost-sharing. Help is available.

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Medicare Parts

Part A (Hospital Insurance)	Part B (Medical Insurance)	Part C (Medicare Advantage)	Part D (Rx Drug Coverage)
Pays for hospital, skilled nursing, hospice, some home health.	Pays for doctors, ambulances, labs, x-rays, durable medical equipment and supplies.	A private plan that offers Part A, B, and often Part D benefits.	Pays for medications.

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Medicare and Other Programs

Part A (Hospital Insurance)	Part B (Medical Insurance)	Part C (Medicare Advantage)	Part D (Rx Drug Coverage)
Medicare Savings Programs can cover costs.			Low Income Subsidy can cover costs.
Medicaid can provide additional benefits			
Employer-sponsored insurance and retiree coverage can provide additional benefits			

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Eligibility

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Eligibility for Premium-Free Part A

- Meet one of the following:
  - 65+
  - Social Security Disability for two years
  - End-Stage Renal Disease
  - Amyotrophic lateral sclerosis (ALS, or Lou Gehrig's Disease)
- Meet work history requirement
  - Work history of the individual or spouse
  - Usually 40 quarters, or the equivalent of 10 years of work history
  - Work history requirements can be less
- U.S. Citizen or lawfully present in the United States

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Eligibility for Part A with a Premium

- Immigration status
  - Citizen (no duration requirement) or lawful permanent resident for five years
- At least 65 years old
- Paying a premium
  - In order to enroll in Part A, must also enroll in Part B
  - There are programs that can cover premium costs

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Eligibility for Part B

- Eligible for premium-free Part A; OR
- All of the following:
  - 65+
  - A U.S. Citizen or a lawful permanent resident in the United States for five years

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Enrollment and Costs

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Automatic Enrollment

- Some people are automatically enrolled in Medicare Parts A and B:
  - Turning 65 and currently receiving Social Security or Railroad Retirement benefits
  - On Social Security Disability Insurance (SSDI) for two years
  - Have ALS
  - (Note that people living in Puerto Rico will not be automatically enrolled in Part B)
- For this group, a "Welcome to Medicare" packet should be sent out three months before coverage can start.

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Applying to Medicare A and B

- Individuals can sign up for **Premium-free Part A** any time. There are no late enrollment penalties.
- Individuals eligible for **Part A with a premium** and individuals eligible for **Part B** can apply during certain enrollment periods:
  - Initial Enrollment Period
  - General Enrollment Period
  - Special Enrollment Periods

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Enrollment Periods

- Initial Enrollment
  - 3 months before month you turn 65 or qualify through disability until three months after: 7 months
- General Enrollment (each year)
  - January – March for each year
- Special Enrollment Periods
  - Losing employer coverage
  - Losing Medicaid during the public health emergency
  - Facing a national disaster or other exceptional circumstance
  - Leaving incarceration
- Learn More: NCLER Practice Tip: Final Rules to Streamline & Expand Enrollment in Medicare Parts A & B

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Premiums for 2023

- Part A
  - If eligible for Premium-free Part A: free
  - $278 if 30-39 quarters of work history
  - $506 if fewer or no quarters
  - QMB can help low-income individuals
- Part B
  - $164.90 (more for higher-income people)
  - Medicaid, including MSPs, can help low-income individuals
- Penalties for late enrollment
  - Part A (if pay premium): 10% for each 12-mo. period w/out coverage. Lasts twice the # of years w/out coverage
  - Part B: 10% for each 12-month period not enrolled
- There are programs that can help low-income individuals cover these costs.

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Parts A, B, and C

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Part A: Hospital

- Medicare Part A covers inpatient hospital stays, but there are costs associated with that coverage
  - Deductible of $1,600
  - Days 61-90 costs $400 / day
  - Days 91 and after: $800 / day
  - Days 91 and after are considered “lifetime reserve days.” Medicare will cover 60 of those days total.
- These costs are for 2023
- There are programs to help cover these costs for low-income individuals

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Part A: Skilled Nursing Facility (1 of 2)

- Medicare Part A covers skilled nursing facilities (also known as nursing homes) under certain circumstances
  - Must have had an inpatient hospital stay lasting three days (not including date of discharge) (note that some providers are allowed a waiver of this three-day rule)
  - Physician order
  - Facility must be Medicare certified
  - Skilled care must be needed at least 5 times a week ("daily basis") Custodial care is not covered.
  - Examples of skilled care include IV feeding, physical therapy, occupational therapy, speech therapy, gait evaluation and training

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Part A: Skilled Nursing Facility (2 of 2)

Medicare covers up to 100 days of care

- In full for the first 20 days of a covered stay
- Coinsurance of $200 is required for days 21-100
- No coverage after day 100

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Part A: Observation Status

- When is a hospital stay not a hospital stay?
- “Observation status”– short term treatment, assessment and reassessment while a decision is being made regarding whether patients require treatment as inpatients.
  - Billed under Medicare Part B, not Part A
  - Does not count as a qualifying stay for SNF coverage
  - Recent litigation has resulted in appeal rights for individuals designated in "observation status"

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Part A: Home Health Care

- Medicare covers home health care if certain requirements are met:
  - Need intermittent skilled nursing care, physical therapy, or speech therapy
  - Be homebound
  - Have a health care provider who determines need and sets up plan of care; AND
  - Choose agency providing services that is Medicare certified

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Part A: Hospice

- Medicare covers hospice care, if certain requirements are met:
  - Must be eligible for Part A
  - Hospice doctor and the enrollee's doctor (if they have one) certify that patient is terminally ill
  - Patient chooses hospice instead of treatment for the illness
  - Services received from Medicare certified provider

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Medicare Part B

- Physician and other health care provider services
- Outpatient therapy services
- Outpatient hospital services
- Ambulance
- Other medical supplies and services
  - E.g., durable medical equipment: must be appropriate for “use in the home”
- Part B is optional if you have an Employer Group Health Plan

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Medicare Free Preventive Benefits

- Annual wellness visit
- Coverage of cardiovascular disease blood test
- Diabetic screening if at-risk
- Screenings, e.g., prostate cancer, glaucoma, mammograms
- Certain vaccinations, including COVID-19 vaccinations
- CMS may be adding PrEP to this list

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Part B Costs

- Premium: $164.90 (more for high-income)
- Deductible: $226.00
- Paying for Services
  - In general, if a provider accepts the Medicare approved amount as payment in full, Medicare will pay 80% of the cost to the provider, and the enrollee is responsible for the other 20%.
  - If the provider does not limit the costs of the services to the Medicare approved amount, Medicare will pay the claim to the enrollee and the enrollee will be responsible for the full payment to the provider
  - Limiting charges may apply
  - States may have additional limitations
  - No balance billing for most dually eligible individuals and all QMBs!

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Programs to Help Pay for Costs

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Medicare Savings Programs

- Three programs for those who have limited income and resources:
  - Qualified Medicare Beneficiary: QMB
  - Specified Low Income Beneficiary: SLMB
  - Qualified Individual: QI
- If eligible for any of these, automatically get the Medicare Part D Low Income Subsidy (aka “Extra Help”)

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Qualified Medicare Beneficiary (QMB)

- **Covers Medicare Part A premium (if any); Medicare Part B premium; copays; coinsurance; and deductibles**
- Income and Resource Limits
  - States set income limits for QMB, which range from 100% - 300% of the federal poverty level
    - Most states set income at 100% FPL ($1,215 individual/$1,643 married couple). States are not allowed to set income limits below 100% FPL.
  - States set asset limits for QMBs
    - Most states set asset limits at $9,090 for an individual; $13,630 for a married couple in 2023. The 2024 amounts are $9,430/$14,130. A number of states do not have an asset limit.

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Specified Low-Income Medicare Beneficiary (SLMB)

- **Covers Part B premium Only**
- Income and Resource Limits
  - States set income limits for SLMB
    - Most states set income at 120% FPL ($1,458 individual/$1,972 married couple). States are not allowed to set income limits below 120% FPL
  - States set asset limits for SLMB.
    - Most states set asset limits at $9,090 for an individual; $13,630 for a married couple. he 2024 amounts are $9,430/$14,130. A number of states does not have an asset limit.

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Qualified Individual (QI)

- **Covers Part B premium Only**
- Income and Resource Limits
  - States set income limits for QI
    - Most states set income at 135% FPL ($1,640 individual/$2,219 married couple). States are not allowed to set income limits below 135% FPL
  - States set asset limits for QI.
    - Most states set asset limits at $9,090 for an individual; $13,630 for a married couple. A number of states does not have an asset limit.

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Appeals

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Information on Appeals

- Individuals can appeal coverage and payment decisions.
- Pay attention to dates on determination documents. It may be possible to show good cause for missing a deadline
- Fast Track appeals may apply to:
  - Hospital discharges
  - Terminations of SNF and home health services

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Levels of Appeals

- Initial Determination
  - Request the Medicare Summary Notice
- First level
  - Redetermination (made by a Medicare Administrative Contractor): appeal within the timeframe given on the Medicare summary notice
- Second level
  - Reconsideration made by a Qualified Independent Contractor: file within 60 days of the redetermination
- Third level
  - Administrative Law Judge level (if at least $180)
- Fourth Level
  - Medicare Appeals Council
- Fifth level
  - Federal District Court (if over $1,850 in 2023; will reduce to $1,840 in 2024)

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Part C

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Part C: Medicare Advantage

- Medicare Advantage (MA) Program
  - Private plans through which enrollees obtain Medicare covered services
    - Plans must offer all services covered under Medicare Parts A and B
    - Plans may offer Part D prescription drug benefit
  - Often covers additional benefits
  - Must have both Parts A and B to be eligible
  - Must generally see contracted providers

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Medicare Advantage Plans

- Three Types of MA plans:
  - Coordinated Care Plans
    - Health Maintenance Organizations (HMOs)
    - Preferred Provider Organizations (PPOs)
    - Special Needs Plans (SNPs)
  - Private Fee-for-Service (PFFS) Plans
  - Medicare Medical Savings Accounts (MSAs)

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Dually Enrolled Individuals and MA Plans

- When a person is enrolled in both Medicaid and Medicare, they can use their Medicaid coverage outside the MA plan **only when**:
  - The individual has exhausted the Medicare-covered benefits through the MA plan and Medicaid offers additional benefits
  - The individual uses Medicaid to obtain a health benefit not covered by the MA plan

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Medicare Advantage: Enrollment Periods

- Initial Enrollment Period
  - Seven month window for initial Medicare eligibility (at 65); or 25th month of disability
- Annual Election Period (often referred to as “Open Enrollment”)
  - October 15 – December 7
- Medicare Advantage Open Enrollment Period
  - January 1 – March 31
- Special Enrollment Periods

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Special Enrollment Periods for Low-Income Individuals

- Special Enrollment Periods (SEPs) include:
  - Quarterly SEP for all receiving the Low Income Subsidy, including dually eligible individuals
  - Continuous SEP for institutionalized individuals
  - SEP for leaving incarceration
  - Other circumstances (move out of service area, marketing abuse, etc.)

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Part C Appeals (1 of 2)

- Four options if denied or dissatisfied:
  - Appeals process
  - Expedited appeal
    - if medical conditions warrant (decision w/in 72 hours)
  - Fast-track appeal
    - for hospital/SNF, Home Health discharge
  - File a complaint through grievance procedures, "complaint"

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Part C Appeals (2 of 2)

Appeals process

- Triggered with written denial or failure to grant w/in 14 days for service or 30 days for payment
- 5 steps:
  - Reconsideration by plan: 60 days to appeal
  - Independent Review Entity (IRE)
  - ALJ, Medicare Appeals Council, Federal Court

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Resources

- Medicare.gov
- 1-800-Medicare
  - TTY Users: 877-486-2048
- Medicare and You Handbook
- SHIPs 1-800-434-0222
  - SHIPhelp.org
- Justice in Aging
- Medicare Rights Center
- Center for Medicare Advocacy
- NCLER Practice Tip: Final Rules to Streamline and Expand Enrollment in Medicare Parts A and B
- NCLER Training: Medicare Part D The Prescription Drug Program: Basics and Legal Updates

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Visit Our Website: ncler.acl.gov

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Case Consultations

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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